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THE INDIAN POLICY OF THE UNITED STATES

from 1789-1841

by

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(A.B., Radcliffe, 1904; A.M., Boston, 1923)

A DISSERTATION

submitted in partial fulfilment of the requirements

for the degree of Doctor of Philosophy

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OUTLINE OF THE LEGAL HISTORY OF THE INDIAN  
TREATY POLICY OF THE UNITED STATES TO THE ACT OF 1871

I. Indian Policy--Inheritance from

- A. European policy
- B. English policy
- C. Colonial experience

A. General Policy of European Nations

- 1. Nations eager for land
- 2. Disregarded rights of Indians
  - a. Excuse--Indians of low character, standards of culture, and religious beliefs
  - b. Right to disregard if Indians paid by benefits of European civilization and Christianity
- 3. Could not disregard rights of one another so agreement necessary
  - a. Agreed to give land title to nation making discovery
    - Proof--(1) declaration by different countries
    - (2) wording of grants
    - (3) Johnson and Graham Lessee vs. McIntosh
      - Supreme Court held
      - (a) Spain rested rights in discovery as well as grant from Papacy
      - (b) France, Great Britain, Holland did likewise
    - (4) Henry VIII's commission to the Cabots
  - b. Nation whose agents made discovery had sole right to acquire land from the Indians
- 4. Natives admitted to be rightful occupants of soil
  - a. Indians could use as much as needed by them
  - b. Indians could not dispose of lands
    - (1) Denied by principle that discovery gave exclusive right to nations who made it





- c. Powers impaired through Treaties limiting them
  - d. Land grants made by nations while Indians still possessed it
- B. England's Policy--same as other nations (the right to take possession of the land regardless of the Indians' occupancy although their right to occupy was recognized)
- 1. Charter of 1606 by James I to Sir Thomas Gates
    - a. No reference to Indian occupancy
    - b. Not an oversight because no mention in Second Virginia Charter
    - c. New England patent also does not mention natives occupancy
  - 2. Charles I's Charter to Lord Baltimore for Maryland does mention it
    - a. No concern in their welfare shown
    - b. No concern in North Carolina shown
  - 3. Obligations shifted to grantees and colonists
  - 4. Necessity forces some recognition of Indians
    - a. Indians did not know title in fee simple
    - b. Indians had practically no trace of private ownership or leasehold
    - c. Almost no tribe had undisputed possession of land used by it for hunting, etc.
  - 5. Government recognized
    - a. Right of occupancy by the Indians
    - b. The above to be extinguished by purchase or treaty, etc.
    - c. Commissioners sent to America by Charles I to study question
    - d. Opposition from Massachusetts
    - e. French War brought new demands
      - (1) Lords of Trade 1756 made inquiries of Governor of New York
        - (a) Advised supervision by Governor as in the past
      - (2) Lords of Trade submitted a draft of instructions
        - (a) For Colonial governors to King
        - (b) Advised his allowing no grant to be given or purchase be made within Indians' hunting grounds and other limits
    - f. Proclamation of 1763 as advised in "b" above





### C. Colonial Policy

#### 1. Early colonial purchases indefinite especially Connecticut

- a. Methods unbusinesslike
- b. Some wanted to satisfy claims of Indians; others to get as much land as possible
- c. Maryland Act of March 19, 1638
- d. Virginia policy (cf-M) Act of Assembly March 10, 1655 vs. Injustice to Indians; sales forbidden except by consent of assembly
- e. New York--Patrons to purchase directly from Indians 1629
  - (1) All other purchases forbidden except by consent of patrons
  - (2) Followed by English when in control of New York
  - (3) Treaty of Fort Stannix 1768 fixed line of separation between Indians and settlers
- f. New Jersey and Pennsylvania satisfied Indian claims--no trouble by Indian Wars
- g. Plymouth recognized the Indians as proprietors--no purchases from them except with consent of the court
- h. New England quarrelled with Indians as early as 1632
  - (1) Felt Indians should have only what land they could occupy and improve
  - (2) Rest open for settlement

## II. Policy of United States

### A. First Continental Congress created an Indian Bureau

- 1. Indian tribes and Confederacies regarded as independent nations

### B. Second Continental Congress

- 2. Treaty with Delawares 1778

### C. Confederation





1. Proclamation of September 22, 1783
  - a. Settlement forbidden on )  
Indian lands ) except by the
  - b. Purchase of Indian lands ) consent of  
forbidden ) Congress
2. Treaty with Six Nations 1784
  - a. Recognized as independent nation
  - b. Annuities in goods
3. Treaty with Cherokees 1785
  - a. All Indians to be under protection  
of United States
  - b. Provisions for trade
4. Other treaties. Emphasis on cessions,  
reservations, regulations of trade by Congress

Note: States no longer considered Indian tribes  
independent--United States did theoretically;  
example--Constitution of New York

5. Ordinance of 1787

#### D. Under the Constitution

1. Policy of Confederation (treaties) continued
2. No specific mention of Indian Relations in  
Constitution
  - a. Power of Congress from
    - (1) clause to regulate commerce with  
Indian tribes
    - (2) General Powers clause--Judge Marshall
  - b. United States may not make a treaty  
violating constitution
  - c. Power of President from right to make  
treaties--acquired from Crown--Judge  
Marshall
3. Indian Treaties recognized by Supreme Court  
as supreme law of land
  - a. May even abrogate treaty, as municipal  
law, to protect Indians
  - b. State may use police power to protect  
Indians aiding United States government
4. United States has made over 370 treaties with  
Indian tribes--also more than 2000 laws,  
rules, regulations, etc., shows importance of  
question
5. Three distinct methods of Indian Policy
  - a. Treaty making ) closely
  - b. Establishing of reservations ) bound
  - c. Admittance of Indians to ) together  
citizenship )







6. Significance of Indians as Wards
  - a. Government--both trustee and court to decide questions relative to them but
  - b. Government's decision is final relative to land titles
7. Reservation Treaties
  - a. Secure continued right of occupancy to Indians but title remains in hands of the United States
  - b. President has power to create reservations without authorization from Congress
8. Arguments vs. Treaty System
  - a. United States sovereign over lands in spite of right of conquest--not by consent of Indians
  - b. Treaties belittle power of United States
  - c. Treaties not lasting because settlers would not recognize reservation to new treaties necessary
9. Defence of Treaty Policy
  - a. Best for the moment
  - b. Purpose of Government good--agents not wisely chosen
  - c. Ordinary methods could not be followed because Indians did not recognize fee simple
  - d. Failure due to fact that citizens would not follow wish of President and Congress
  - e. State Rights Theory worked vs. good wishes of government
10. Policy of Washington and his Immediate Successors
  - a. Treaties of Conciliation
    1. Reservations primarily to keep whites out
    2. In return for which Indians usually made land cessions. All treaties through 1809 of this class
    3. All Indian land titles extinguished under Treaty making clause of Constitution to Act of 1871
    4. Difference between right of reservation and right of occupancy--right of reservation acquired directly from the United States
  - b. Bureau of Indian Affairs under Department of War 1849 changed to Department of Interior--All kinds of business conducted by it







c. Preemptioners and Preemption Laws

1. 1801--first Preemption Law
2. Association of Preemption with Treaty Making and Reservations
3. Method of opening up new lands
4. To 1841 Congress passed 16 more preemption acts
  - (a) specific to 1830
  - (b) general after 1830

d. Admission of Indians to Citizenship

1. First Treaty with Cherokee (1817)  
cf. citizens' rights to new land
2. Opposition of State Rights Theorists
3. Indian citizens--"closed reservations"
  - (a) Through white blood
  - (b) Purchase of allotments of deceased Indians
4. Land allotments in severalty in Treaty of July 15, 1830 with Sauk, Fox, etc.
  - (a) To Half Breeds
5. Status defined by statutes and Court proceedings
  - (a) Question of Amendment XIV; Supreme Court decided did not change status

e. Treaty Act of 1871 declared

1. No more treaties with Indians, recognized as independent nations
2. Meant Indians completely wards of government
3. State legislatures had no control over Indian territory within its borders





THE LEGAL HISTORY OF THE INDIAN TREATY  
POLICY OF THE UNITED STATES TO THE ACT OF 1871

In the same way that the United States inherited their laws from the English common law and Colonial experience, they inherited their Indian policy. Each of the nations of Europe, for one reason or another, was eager to acquire as much land as possible in this new continent. The European sovereigns and leaders excused their seizure of territory from the Indians on the ground that their character, their low standards of culture and religious beliefs made it proper to assume control over these peoples and their lands, the natives receiving ample payment from the benefits of European civilization and Christianity offered to them. As the aspirations of these different countries, however, tended to collide, it became necessary, in order to avoid future conflicts, to establish an international principle which they all would be willing to follow in relation to acquisition of territory. This principle gave the land title to the government by whose subjects or under whose authority such a discovery was made against the authority of any other European or civilized nation; such a title<sup>1</sup> to be consummated by possession.

1 Royce, Indian Land Cessions of United States, 527-528







This is shown not only by the declaration made for these different countries but also by the wording of various grants and charters allowed by them. In the case of Johnson and Graham lessee vs. McIntosh, heard before the Supreme Court of the United States, a decision<sup>1</sup> was rendered covering the following point. Spain did not rest her title solely on a grant from the Papacy but also on rights given her by discovery. France, Great Britain, and Holland likewise recognized the principle of right by discovery. In 1496, King Henry VII commissioned the Cabots to discover countries then unknown to Christian people, and to take possession of them in the name of the King of England. From these discoveries, as every student knows, the English traced their title to their possessions in North America.

All these European nations came to recognize as a secondary principle the idea that the nation whose agents made a discovery of land had the sole right of acquiring the soil from the Indians, and planting settlements upon it.<sup>2</sup> The relations between the discoverers and the natives were to be regulated by these individual nations exclusively, and no other power could interfere. Nevertheless, these powers did not wholly disregard the rights of the Indians in planting colonies in these territories, of

<sup>1</sup> Wheaton, 8.543

<sup>2</sup> Royce 528





which they had taken possession. In the establishment of these relations, the rights of the original inhabitants were not entirely disregarded but were, to a considerable extent, impaired, usually through treaty limitations, as will be shown later. They were admitted to be the rightful occupants of the soil, with a legal<sup>1</sup> as well as a just claim to keep possession of it.

These lands they could use according to their own discretion but their rights as independent nations were necessarily from the standpoint of the European governments and the settlers, somewhat diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle that discovery gave exclusive<sup>2</sup> right to the nation who made it.

Therefore, while the different nations of Europe respected the rights of the Indian nations, they declared that the real dominion belonged to them, claiming and exercising as a consequence of this power, the right to grant the soil while still in the possession of the natives. Such grants were and have been understood by all to convey the title to the grantees, subject only<sup>3</sup> to the Indian right of occupancy.

1 Wheaton, 8.543 Johnson and Graham Lessee vs. McIntosh  
This idea was subsequently limited, the idea being to occupy as much of it as was necessary for their needs. Royce 538

2 Royce 528-529

3 Ibid 529





Of course, the nations did not, however, always follow these principles in their dealings with the Indian nations. This right to take possession of land regardless of the Indian occupancy of the soil principle already recognized, continued to be the policy of all the discovering nations, England included. By the charter of April 10, 1606, James I granted to Sir Thomas Gates and others for "two several colonies", upon their request, two districts greater in size than England, inhabited by many thousands of Indians, of different nations and tribes. The King was fully aware of this Indian occupancy of the land and yet the charter does not contain the slightest reference to them. This could not have been an oversight because in the second charter to the Virginia Company there is likewise no mention of them. In the New England patent, the sovereign granted "the aforesaid part of America lying arid and being in breadth from forty degrees of northerly latitude.. .....to forty-eight degrees of said northerly latitude inclusively, and in length of and within all the breadth aforesaid throughout, the mainland from sea to sea, together also with all the firm land, soils, grounds, havens, ports, rivers, waters, fishings, mines, and minerals," and still not the slightest suggestion that the Indians were occupying any of this territory; and yet there is

1 Royce 550

2 Wheaton 8 543





a proviso in this grant exempting from the grant any land already possessed or inhabited by another Christian prince or state. However, in the case of Charles I's charter for Maryland to Lord Baltimore, Indian occupancy was mentioned; although there is no reference to their rights or is there any consideration shown regarding their welfare or proper treatment. Indian occupancy is recognized in this charter by the following:

1. "A certain region, hereinafter described, in a country hitherto uncultivated, in the parts of America, and partly occupied by savages having no knowledge of the Divine Being,"
2. The payment of two Indian arrows at Windsor Castle yearly on the Tuesday of Easter week,
3. The "savages" are mentioned as enemies that the colonists may have to deal with, and
4. (Section 12) Lord Baltimore is authorized to collect troops and wage war on the "barbarians".

Other charters could be cited to show that the general policy of the English sovereigns was wholly to ignore the Indian rights in granting land charters and to show no direct interest in their welfare. James Mooney of the Bureau of American Ethnology in speaking of the situation in North Carolina, goes so far as to say "The tribes between the mountains and the sea were





of but small importance politically.....War, pestilene and systematic slave hunts had already exterminated the aboriginal occupants of the Carolinas before anybody had thought them of sufficient importance to ask who they were, how they lived, or what were their beliefs and opinions".<sup>1</sup> The European governments shifted their obligations to the grantees and to the colonists. In the later period of colonization, however, there were times when necessity forced the British government to deal with the Indian question, taking some definite action leading to the development of some policy. This was the more necessary in that the Indian tribes knew nothing of the title in fee simple, that meant so much to the English and the English colonies. They had hardly any trace of private ownership or leasehold.<sup>2</sup> What made the situation still more difficult was the fact that rarely did any Indian tribe have undisputed possession of the hunting fields which it used. Nevertheless, the Crown in general, established its right to be sole purchaser of tribal lands and sales agent to the colonists to any man "de futuro". The result was that the government recognized the right of occupancy by the Indians, and the right of the government to extinguish this right by purchase or other suitable means, usually

1 The Sionian Tribes of the East Report 1894 page 6

2 Paxson American Frontier 45

The charter granted to Sir Humphrey Gilbert in 1578 authorized him to discover and take possession of such remote heathen and barbarous lands as were not actually possessed by any Christian prince or people. This charter was afterwards renewed to Sir Walter Raleigh in nearly the same terms.







by treaty. Charles II sent commissioners in 1664 to America for this purpose; <sup>1</sup> but chiefly because of the opposition of Massachusetts, no definite policy could be evolved, although these officials decided some claims based on purchase from the Indians. At the time of the war with the French, when the expedition against Canada was being planned, pressure was brought to bear upon the British government to adopt some definite method of procedure. The Lords of Trade in 1756 inquired of Governor Hardy of New York what he would advise relative to the management of Indian affairs. He replied that in the case of the Six Nations, the governor of the province should have the chief direction of their affairs, and that no steps should be taken without consulting him, as he had always directed the transactions with them. On December 2, 1761 the Lords of Trade submitted to the King a draft of <sup>2</sup> instructions to the governors of the colonies which he approved. The next August, the same body informed Sir William Johnson that they had proposed to his Majesty that a proclamation should be issued declaring his Majesty's final determination to permit no grants of land nor any settlement to be made within certain fixed bounds under pretence of purchase, or any pretext, whatever, leaving all the territory within the bounds free for the hunting grounds of the Indian nations, and for the free trade of

1 Royce 555

2 Royce 558







all his subjects. This was the policy generally pursued after 1763, especially in the districts of North America acquired from the French at this time, as well as by the earlier treaty of Utrecht.<sup>1</sup>

Laws of United States Relating to Public Lands 1828

pages 86-88)

Footnote 1. The Proclamation of October 7, 1763 applied to Quebec, East Florida, and West Florida as follows: "And we do further declare it to be our royal will and pleasure, for the present, as aforesaid to reserve under our sovereignty, protection, and dominion for the use of the said Indians, all the land and territory not included with the limits of our three new Governments, or within the limits of the territory granted to the Hudson Bay Company, and we do hereby strictly forbid, in pain of our displeasure, all our loving subjects from making any purchase or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever who have either wilfully or inadvertently seated themselves upon any lands within the countries, above described, or upon any other lands, which not having been ceded to or purchased by us are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians to the great prejudice of our interests, and to the great dissatisfaction of the said Indians, in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our privy council, strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians, within these parts of our colonies where we have thought proper to allow settlement; but that if at any time, any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose.







Uncertainty is associated with every one of the earlier colonial purchases from the Indians. Connecticut cannot even be defined on the map. The extent of such purchases was decided in some cases by a day's travel, on foot or horseback, while some of the grants overlapped one another.<sup>1</sup> A loose custom prevailed in some colonies of allowing individuals to purchase from the Indians without the strict recording of such deeds of purchase. These different methods of procedure in the different colonies had an important significance in their history since some colonies considered principally the idea of satisfying the claims of the Indians, while others had the object of getting as much land as possible, apparently, through treaties made with them.<sup>2</sup> In Virginia, the policy of granting the right to the county commissioners of purchasing Indian lands was soon found to lead to fraud and injustice so the assembly made a general declaration of policy on March 10, 1655.<sup>3</sup>

Act. I. "What lands the Indians shall be possessed of by order of this or other ensuing Assemblys, such land shall not be alienable by them, the Indians, to any

1 Royce 562

2 Ibid 563

3 Burke, History of Virginia II 102







made de futuro, for this' will put us to a continual necessity of allotting them new lands and possessions, and they will be allwaies in feare of what they hold, not being able to distinguish between our desires to buy, or enforcement to have, in case their grants and sales be desired...Therefore be it enacted, that for the future no such alienation or bargaines or sales be valid without the assent of the Assembly. This act not to prejudice any Christian who hath land already granted by patent." 1

In the act of March 19, 1638 in Maryland, we find a statement of policy for a proprietary colony similar to that of Virginia. "No subject of his Majesty, the King of England, or of any other foreign prince or state shall obtain or procure, or accept of any land within this province from any foreign prince or state, or from any person whatsoever, (the natives, owners of the land excepted) other than from the lord proprietary or his heirs or some person claiming under him or them. Neither shall he obtain, procure, or accept of any land within this province by virtue of such grant, upon pain that every person offending to the contrary thereof shall forfeit and lose to the lord proprietary and his heirs all such lands so accepted or held without grant of the lord proprietary or under him. 2

By 1651, however, the white population in St. Mary's County and part of Charles County, had grown so fast that it forced most of the natives from their lands there. Whereupon, Lord Baltimore granted them a tract of land at the head of the Wicomico River in Charles County. We find similar instances in Maryland down to June 23, 1768, when a payment of \$666 2/3 was authorized to the Nauticokes for 3,000 acres in Summerset county, which

1 Heming's Statutes at Large I 396 March 13, 1657 Act 51  
2 Bozman, History of Maryland 1837 II 112-113





- 31 -

the Indians agreed to accept as full payment thereof.<sup>1</sup>  
The act of March 12, 1786 is significant because it  
made provision for annuities to be paid to the Indians  
as the United States did about this same time.<sup>2</sup>

In the New Project of Freedoms and Exemptions of  
New York, probably of 1629, article 27 required the  
patroons to purchase the land from the Indians living  
where they intended to settle.<sup>3</sup> Article 33 declared  
"All private and poor peoples are excluded from these  
Exemptions, Privileges and Freedoms, and are not allowed  
to purchase any lands or grounds from the sachems or  
Indians in the New Netherlands but must repair under  
the jurisdiction of the respective Lords Patrons".  
Typifying as this does an undemocratic system yet,  
nevertheless, it would seem that these early Dutch settlers  
were just in their policy of purchasing the land from the  
Indians on which to settle and while their dealings with

Footnote 1: "Both the English and the Dutch on Long Island  
respected the rights of the Indians, and no land was taken  
up by the several towns or by individuals, until it had  
been fairly purchased of the chiefs, of the tribe who  
claimed it. The consideration given for the land was in-  
considerable in value, and usually consisted of different  
articles of clothing, implements of hunting and fishing,  
domestic utensils, and personal ornaments, but appears  
to have been such in all cases as was deemed satisfactory  
to the Indians". James Macauley History of the State of  
New York 1829 II Page 260

2 William Kilby Laws of Maryland (unpaged)

3 New York Columbia Documents Page 44







the Indians, in other ways, notably the fur trade, were not always praiseworthy, their methods of extinguishing the Indian titles to land seem to have been fair. The English when succeeding to the control of New York seem to have followed a similar policy. In this colony as in the case of others already mentioned, there was confusion in land claims. In 1765, it was also proposed that a fixed and well defined line between the whites and the Indians should be marked out, and that the whites should be absolutely prohibited from settling beyond it under any pretence. The Treaty of Fort Stanwix, in 1768, fixed<sup>1</sup> this line of separation.

In the case of New Jersey, not only were all the lands purchased from the Indians by treaty, but in cases where disputes arose with them, the wise course of yielding in<sup>2</sup> part and buying out their claims was accepted. As a result, the people of New Jersey had little to fear from the Indians, when Indian wars were waging in the adjacent colonies. William Penn's policy in Pennsylvania seems to have been to extinguish Indian claims rather than to purchase definite areas of land. This satisfied the Indians, but as a consequence, the land grants often

1 New York Columbia Documents VIII 136

2 Royce 591








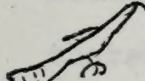
Fowler  
American History

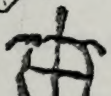
A receipt from the  
Six Nations for  
£10000 Sterling or  
20000 Dollars.

Received from the honorable Thomas and Richard Penn Esq's true and absolute Proprietors of Pensyl-  
vania by the hands of the honorable Sir William Johnes  
Baronet the sum of two thousand Dollars being the  
full consideration of the Lands lately sold to them by  
the Indians of the six Nations at the late Treaty of  
Tulsaury we say received this Twenty eighth  
day of July — Anno Domini 1769 — for ourselves  
and the other Indians of the six Nations and their confederates  
and dependant Tribes for whom we act and by whom  
we are appointed and empowered —

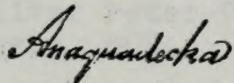
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Messrs. <sup>Not. MacLeod</sup> ~~James Tully~~ <sup>Pat Dalrymple</sup>  
~~James Tully~~  
Jacob H. Cook Justice

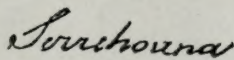
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
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
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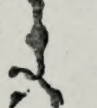
 Jonathan Hagegaw <sup>negro</sup>

 Joseph Hagerdon <sup>negro</sup>

 James Scharoon

 Lodowick Augharuta

 Joseph Tagahwaron

 Tayuni





overlapped one another and had to be repurchased two or three times.<sup>1</sup> This was not unusual even under the later United States control.

The people of Plymouth, Massachusetts, recognized the Indian occupants as the proprietors of the district and adopted at an early date the rule that no purchase of land should be made from the Indians without the consent of the Court.<sup>2</sup>

In Massachusetts Bay Colony (to quote Oliver),<sup>3</sup> "So early as 1632, the Indians began to quarrel with the English about the bounds of their land for the Puritan Pilgrims maintained that 'the whole earth is the Lord's Garden' and therefore the peculiar property of his saints, admitted the natural right of the aborigines to so much soil only as they could occupy and improve". In 1633, the General Court therefore ordered that "what lands any of the Indians have possessed and improved by subduing the same, they have just right unto, according to that in Genesis Chapter I, 28, and Chapter IX".<sup>4</sup>

1 Ibid 599

2 Thacher History of Plymouth 145

3 Oliver Peter-Puritan Commonwealth 101

4 Royce 602







This implied that all land not occupied by the Indians and used for agriculture lay open to any that could or wished to improve it. It resembles the preemption claims of United States citizens of the early nineteenth century. The policy of Connecticut and Rhode Island, however, was<sup>1</sup> fair, equitable and humane.

These cases of colonial Indian relations already referred to, with others, gave considerable precedent and experience to help the Continental congress in shaping its Indian policy. At the time the Revolutionary War broke out, the Indian Tribes and Confederacies were regarded as sovereign nations, allies of Great Britain and her King. One of the first acts passed by this congress was the one creating an Indian Bureau, reenacted by the first Congress under the Constitution. The first Indian treaty was made by the Second Continental Congress with the Delawares September 17, 1778,<sup>2</sup> the purpose of the treaty being principally to get their support vs. the English. Several articles initiating principles continually followed thereafter by the United States in its treaty making policy are quoted here. Article VI. "Whereas the enemies of the United States have endeavored, by every artifice in their power to possess the Indians

1 Royce 611-619, 619-624

2 Kappler II 3-5  
Manypenny 128-129







in general with an opinion; that it is the design of the States aforesaid, to extirpate the Indians, and take possession of their country; to obviate such false suggestions, the United States do engage to guarantee to the aforesaid nation, the Delawares, and their heirs, all their territorial rights in the fullest and most ample manner, as it has been bounded by former treaties as long as they, the said Delaware nation shall abide by, and hold fast the claim of friendship now entered into. And it is further agreed between the contracting parties should it for the future be found conducive for the mutual interest of both parties to invite any other tribes, who have been friends to the interest of the United States to join the present confederation, and to form a state whereof the Delaware nation shall be the head, and have a representative in Congress. Provided nothing contained in this article to be considered as conclusive until it meet with the approbation of Congress". This last clause attached to so many Indian Treaties has made Congress "the graveyard" of many of them. The Articles of Confederation (Article IX) gave Congress "the sole and exclusive right and power of regulating the trade and managing the affairs with the Indians not members of any of the states, provided that the legislative right of any state within its new limits be not infringed or violated.<sup>1</sup>

1 Journal of Congress II 112-117 July 12, 1775







By the proclamation of September 22, 1783, all persons were forbidden "from making settlements in lands inhabited or claimed by Indians without the limits or jurisdiction of any particular state; and from purchasing or receiving any gift or cession of such lands or claims" without the express authority and direction of the United States in Congress assembled.

The Treaty of 1784 with the Six Nations made by the government of the Confederation carries out the principle of making a treaty with an independent nation, as well as the beginning of the wardship principle, so often used in conjunction by the United States which to the layman seem contradictory of one another,<sup>1</sup> i. e. Article II. "The Oneida and Tuscarora nations shall be secured in the possession of the lands on which they settled." Article IV "The Commissioners of the United States in consideration of the present circumstances of the Six Nations, and in execution of the humane and liberal views of the United States upon the signing of the above articles, will order goods to be delivered to the said Six Nations<sup>2</sup> for their use and comfort." The situation of their lands brought trouble to them because of their espousal of the British cause. (see map). In

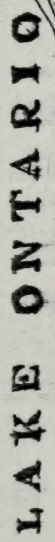
1 Kappler II 5-6

2 Senecas, Mohawks, Onondagas, Cayugas, Oneidas, Tuscaroras









SONS

THE

To His Excellency  
**WILLIAM TRYON ESQ.**  
 Captain General & Governor in Chief  
 of the Province of NEW YORK &c.  
 This Map  
 of the Country of the VI Nations  
 Proper with Part of the Adjacent Colonies  
 is humbly inscribed by his Excellency's  
 Most Obedient humble servant  
 Guy Johnson 1771

EXPLANATION	REMARKS
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A. Indian Villages  
B. Chief Towns or Large Villages  
C. Indian Parties  
The Boundary Settled with the  
Indians in 1768 is described by  
a --- line.

Hulbert Indian Thoroughfares







the additional Treaty of January 21, 1785 with the Wyandot, Delaware, Chippewa and Ottawa Nations, which is typical of treaties made with the Indians following the Revolution, we find Article II "The said Indian nations do acknowledge themselves and all their tribes to be under the protection of the United States."

Article V "If any citizen of the United States or any other person shall attempt to settle on any of the lands allotted to the Wyandot and Delaware nations in this treaty except on the lands reserved to the United States, in the preceding article, such person shall forfeit the protection of the United States, and the Indians may punish him as they please." Article IX "If any Indian or Indians shall commit a robbery or murder of any citizen of the United States, the tribe to which such offenders may belong, shall be bound to deliver them up at the nearest post, to be punished according to the ordinances of the United States."

This principle is recorded again and again in subsequent  
<sup>1</sup>treaties, especially those following wars.

<sup>2</sup>  
The Treaty of November 28, 1785 with the Cherokees has the first article regulating trade for which Congress by the Act of 1783 made general provision. Article IX

1 Kappler II 6-8  
2 Kappler II 8-10







of this treaty reads as follows, "For the benefit and comfort of the Indians and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States in Congress assembled shall have the sole and exclusive right of regulating the trade with the Indians and managing all their affairs in such manner as they think proper." Article X "Until the pleasure<sup>1</sup> of Congress be known, respecting the seventh article, all traders, citizens of the United States shall be at liberty to go to any of the tribes or towns of the Cherokees to trade with them, and they shall be protected in their persons and property, and kindly treated." Similar policies are included in the other treaties made by the Confederation with the Cherokees, 1786,<sup>2</sup> the Chickasaws, 1786,<sup>3</sup> and the Shawnees, 1786,<sup>4</sup> all in the same month. This principle was also continued by the Congress of the Constitution through Treaties and Acts to regulate trade.

During the same period, which opened with the Revolution and closed with the adoption of the Constitution, the states ceased to consider the Indian tribes as sovereign

1. "If any citizen of the United States or person under their protection, shall commit a robbery or murder, or other capital crime, on any Indian such offender or offenders shall be punished in the same manner as if the murder or robbery or other capital crime, had been committed on a citizen of the United States...."

Kappler II 10

2 Kappler II 11-14

3 Ibid 14-16

4 Ibid 16-18







nations, while the federal government still considered them as theoretically independent. This is equally true in the northern as well as the southern ones. For example, in the constitution of the State of New York (1777) we find the following "....And whereas the frauds too often practiced toward the said Indians in contracts made for their lands have, in divers instances been productive of dangerous discontents and animosities. Be it ordained, that no purchase or contracts for the sale of lands made since the fourteenth day of October in the year of our Lord, one thousand seventeen hundred and seventy-five, or which may hereafter be made with any of the said Indians, within the limits of this State, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this state."

The following Indian treaties were made under the Confederation.

			2
Treaty of Fort McIntosh with Wyandots	January 21,	1785	
Treaty of Hopewell with Cherokees	November 28,	1785	3
Treaty of Hopewell with Choctaws	January 3,	1786	4
Treaty of Hopewell with Chickasaws	January 10,	1786	5
Treaty of Mouth of Miami with Shawnees	January 31,	1786	6

- |   |  |
|---|--|
| 1 | Law of Colony and State Governments in Regard to<br>Indian Affairs 1832 61 See also for North Carolina<br>5th Annual Report Bureau of Ethnology 1883-4 130 |
| 2 | United States Statutes at Large 7-16 Kappler II 6-8  |
| 3 | " " " " " 7-18 " II 8-11   |
| 4 | " " " " " 7-21 " II 11-14  |
| 5 | " " " " " 7-24 " II 14-16  |
| 6 | " " " " " 7-26 Compilation 784<br>Kappler II 16-18   |







All the above lay emphasis on the question of cessions to the United States and reservations for the Indians to be unmolested by the whites, the Indians declaring themselves under the protection of the United States, and recognizing the right of Congress to regulate trade within their borders.

The theory and policy of Indian relations under the Confederation were continued under the Constitution, there being no change in the authority which may act in such cases, although the clause of the Confederation relative to Indian control or a similar one, was not inserted in the Constitution. The only specific mention therein of relations with the Indians is relative to the power to regulate commerce with them.<sup>1</sup> Therefore the power to act must be found in this clause, in that relating to the making of treaties,<sup>2</sup> and in the clause granting general power to Congress and the Executive. Chief Justice Marshall<sup>3</sup> in the case of the American Insurance Company vs. Carter declared that territory is governed by that clause in the constitution which gives Congress the power "to make all needful rules and regulations respecting the territory or other property of the United States. Story in his<sup>4</sup> Commentaries states, "As the general government has the

1 Constitution I Section VIII paragraph 3

2 Constitution I Section VIII paragraph 2

3 Constitution I Section III paragraph 2  
Peters 1 542

4 Story 1265





right to acquire territory by conquest or treaty, it would seem to follow, as an inalienable consequence, that it possesses the power to govern what it has acquired. There is no where an express power given to Congress to erect them. " (territorial governments) But under the Confederation, Congress did provide for their creation as a resulting and implied right of sovereignty, by the Ordinance of 1787. And Congress under the Constitution, has ever since without question and with the universal approval of the nation, created territorial governments from time to time.<sup>1</sup> To the average citizen it would seem a most natural conclusion that all territory within the jurisdiction of the United States, not included in any state must necessarily be governed by or under the authority of Congress. Judge Thompson ruled in the case of the United States vs. Gratiot,<sup>2</sup> "The term territory is equivalent to the word lands and Congress has the same power over it as over any other property that may belong to the United States and this power is vested in Congress without limitation." But this, of course, does not mean that the United States may make a treaty binding the government to do anything that would violate the Constitution.

1 United States 129 Bulletin 24 Indian Affairs

2 Peters 1 453







Chief Justice Waite in the National Bank vs Yankton  
Company,<sup>1</sup> voices a similar idea, "There has been some  
differences of opinion as to the particular clause  
by which the power of Congress to govern the territories  
is derived, but that such power exists, has always been  
conceded."

The Constitution says that the President shall have  
"full power to make treaties,"<sup>2</sup> and this fact seems to  
imply his right to carry on diplomatic relations with  
the Indian tribes, such power having come down to him  
from the English Crown by the Treaty of 1783. Perhaps  
we should say initiate, as the consent of the Senate  
is necessary before a treaty may be put into effect.

Chief Justice Marshall in his logical way puts  
the case thus,<sup>3</sup> "The United States then have un-  
equivocally acceded to that great or broad rule by  
which its civilized inhabitants now hold this country.  
They hold and assert in themselves the right by which  
it was acquired they maintain, as all others have main-  
tained, that discovery gave an exclusive right, to  
extinguish the title of occupancy, either by purchase  
or by conquest, and gave also a right to such a degree  
of sovereignty as the circumstances of the people would

1 McLean 1 234

2 Constitution II II paragraph 2  
Weil 23

3 Johnson vs McIntosh 8 Wheaton 543





allow them to exercise."

It is clear then that treaties with the Indians have been recognized as treaties within the meaning of the Supreme Court of the United States and so a part of the supreme law of the land.<sup>1</sup> It is noteworthy, however, that Congress may abrogate a treaty in so far as it is municipal law, provided that the subject matter is within the legislative power of Congress.<sup>2</sup> There can be no doubt that the federal government can by power of treaty protect foreigners in person and property and remove them from the operation of a particular law of the commonwealth in which they are living; and so in the case of Indian treaties even though the commonwealth may object to its guardianship of the Indians it may abrogate a treaty in favor of them. The Commonwealth, however, may use its police power for the purpose of furthering the benevolent purposes of the United States towards Indians individually or tribally;<sup>3</sup> and a state may admit their cases to the courts;<sup>4</sup> but if the United States should recognize the tribal organization of an Indian group, the government

- 1 Turner vs American Baptist Missionary Union  
5 McLean 344 Ellis 514
- 2 United States vs Tobacco Factory 1 Dill 264
- 3 New York vs. Dibble 20 Howard 366
- 4 Kansas Indians 5 Wallace 737







of the state cannot treat them as subject to its laws.

There are more than three hundred and seventy treaties between the United States and the Indian tribes<sup>1</sup> on the statute books,<sup>1</sup> together with more than two thousand specific laws relating to them,<sup>2</sup> to say nothing of court decisions, rules and regulations for Indian affairs as a result of Congressional enactments, decisions of the Comptroller of the Treasury, opinions of the Attorney General, Executive Orders, and orders from the Secretary of the Interior<sup>3</sup> all of which will give some idea of the importance of the question even if the average citizen does not give it a thought. The variety of the above shows clearly that the different divisions of the Government were feeling their way in respect to the status of the Indians and their relation to these people, collectively and individually. Because of the difference of emphasis, made by these different groups of United States officials, we naturally find conflicting opinions concerning what was best for the Indians which were considered justifiable as far as the officials themselves were concerned. Then, too, because of the various political and financial phases of the Indian question, it became entwined with many others, notably slavery and

1 McDonell 3 Kappler Volume II Walker 35

2 Kappler I, III

3 McDonell 3







state rights of which more will be said later.

It is hard to say what the general Indian policy of the United States government under the Constitution has been, because beyond a doubt the methods employed by it have been vacillating and changeable in an illogical way.<sup>1</sup> Generally speaking, the Indian policy may be divided into three distinct methods, 1. Treaty making, 2. The establishing of the reservation principle (or reestablishing it, since it was known to colonial experience) and 3. The admittance of the Indians to citizenship. The first two methods became closely bound together even before the Revolution, and remained so after it. This means that the status of the Indians, themselves, has gone through three stages too: 1. as separate nations; 2. as wards; and 3. as citizens.

The situation of the Indians as wards has a peculiar significance in that as a general rule in law, wards can give up their title to land only after a decree of the court has been granted allowing them to do so. In the case of the Indians, however, the government is both the guardian and the court and since there is no authority

1 Dodge 2 Kappler II 39-165  
2 Royce 536





higher than it, its decision must be final, otherwise ,  
there can be no transfer of title.<sup>1</sup>

In many cases these three conditions overlap and in a few cases we find the conditions existing all together. Reservation of land in an Indian treaty of cession simply secures to those in whose favor the reservation is made, a continued right of occupancy in the land, while the final title still stays in the hands of the United States as before the treaty was

1. The United States is guardian and trustee over Indians in

Arizona	Kansas	Nevada	Oregon
California	Michigan	New Mexico	Oklahoma
Colorado	Montana	New York	Washington
Idaho	Nebraska	North Carolina	Wisconsin
Iowa	Wyoming	South Dakota	
Florida	Utah	North Dakota	Kappler I 1026- 1046 1904

The United States had under its care as trustees \$13,873, 015.88 on which it pays 5% to the Indians as their trustee, (Kappler I 1022-1026) holding in the treasury for them in 1904 \$35,036,037.47, the largest being the Osage fund of \$80,311,070.53 on which \$415,553.52 interest was paid. Practically all received annual annuities for a few or a long term of years, payment being still made. Increased to \$29,299,009. in 1923. Report to Department of Interior.





made.<sup>1</sup> When the treaty of cession directs that the land shall be selected and surveyed, and that patents in fee simple shall be made, the Indians become tenants in common with the United States.<sup>2</sup> The President has the power to set apart land for Indian reservations without special authorization, Congress having recognized such right. This point is backed by court decisions based on the right given the President to execute all laws relative to Indian affairs.<sup>3</sup>

The principal arguments against the treaty system, as made by its enemies, may be summed up in the following statements: that the United States has been recognized as the sovereign power over part of North America within certain fixed limits; that we claimed this country, not by conquest or by consent of the Indians but in spite of them; and that we have stultified ourselves by making treaties with the petty bands or tribes as if they were independent. As one defender of the Indian puts the

1 Weil 60 64

2 Minnesota vs Wilson 23 Howard 457 United States Statutes 462, 465

3 United States vs Leathers Sawyer 17







2  
case, "If the United States did not own the lands, and if the treaties were just and necessary, then the subsequent action towards the Indian has been more barbarous than anything that they have ever done against the whites. If the United States did own the land, then the whole treaty system is murderous folly devised by the Father of Mischief to keep up continuous trouble." 3  
This is rather a harsh arraignment of the Government's methods but Manypenny, who as government official had

- 2 Bishop Whipple, a staunch defender of the Indians, voices the matter thus, "Our first dealing with these savages is one of those blunders which is worse than crime. We recognize a wandering tribe as an independent sovereign nation. We send ambassadors to make a treaty as with our equals, knowing that every provision of that treaty will be our own, that those with whom we made it, cannot compel us to observe it, that they are to live within our territory, yet not subject to our laws...We treat as an independent nation, a people whom we will not permit to exercise one single element of that sovereign power which is necessary to a nation's existence." Whipple 450. "...We have recognized them as an independent nation, and then left them without a vestige of government or law. The only human being in the United States who has none of the restraint or protection of the law is the Treaty Indian. He has no protection in person, property or life. Every notion which could induce him to become civilized is taken away.... his only redress is private revenge." Whipple 454.







seen them in operation makes the following statement<sup>1</sup> in his "Our Indian Wards": "From the organization of the government until the year 1871, the extinction of Indian title to lands was acquired by Treaty and by the same process the new home set apart from time to time for the residence of the tribe was assured to it with the covenant in the Treaty--that such new home should be the permanent home of the tribe forever. Such covenants though solemnly entered into by the government, were not regarded. Whenever the progress of settlement brought the white men's residence near the Indian's home, another treaty was demanded. If the tribe was unwilling to surrender the 'permanent home' and no other means was found adequate to bring the Indian into negotiation, in due time through complications of some sort, there was what was termed an outbreak rapidly followed by a conflict terminating in another removal."

There is considerable justice in this statement as there is also in that of Humphrey who says in defence of the government, "This want of completeness and consistency in the treatment of the Indian tribes by the government has been made the occasion of much ridicule and partisan abuse..but it is none the less

1 Manypenny X (Commissioner in many Indian Treaties, also)







compatible with the highest expediency of the situa-

tion." <sup>1</sup> Royce, the government's own compiler, says "the right of occupancy in the Indian until voluntarily relinquished or extinguished by justifiable conquest being conceded, it became necessary on the part of the government to adopt some policy to extinguish their right to such territory as was not necessary for their actual use. Because the Indians had no regular political organization, or general government, the usual policy of civilized nations could not be adopted. As their claims were those of tribes or communities, and not individuals in severalty, it followed as a matter of necessity that the only policy which the government could adopt was to recognize them as quasi-dependent, distinct political communities, or nations, or half sovereign states, and treat them as such." <sup>2</sup>

"The fairest opinion seems to be that the intentions of the government were the best but their experience of law makers and inability of agents, together with the possibilities for graft, made complete success by the government in dealing with the Indians almost impossible. Present day writers have come to feel that much of the treaty making with the Indians was a sort of legal fiction but it was not the part

1 Humphrey 20

2 Royce 535







of wisdom to hamper the struggle for national life with theoretical lures or legal technicalities, which stood in the way of practical progress." <sup>1</sup> Necessity probably forced the government to follow what in early times was the best and most just policy for the moment which it could have adopted. When it did occur, failure was probably due to the fact that what Congress and the President wanted to do by law, was not desired by the citizens of that part of the country in which they wished to put the law into effect, and by those who <sup>2</sup> were supposed to administer it.

At any rate, "Wherever the white and the red race have come into contact the fierce struggle that always marks the meeting of a superior and an inferior race, of a higher with a lower civilization had manifested itself." Careful study of the situation seems to show that the Indians have been most humanely treated when the central government has been strongest: namely before the states rights doctrines had tended to undermine the central authority, and after it had overcome

1 Barrows 6

2 "The failures of the government have never been these of purpose but rather these of lack of ability to carry its purpose into effect. This weakness showed itself particularly in those details of administration by which its humane and benevolent purposes were to have been accomplished." Chittenden.







the pernicious effects of that theory, at any rate<sup>1</sup>  
as it related to the Indians.

Chief Justice Taney, one of the few justices not sustaining the government's right to regulate the Indian land question as an authority even superior to the state, defends the state rights theory in the Dred Scott vs Sanford case: "The provision of the constitution authorizing Congress to make all needful rules and regulations for the government of territory does not apply to territory acquired by the federal government by treaty or conquest from a foreign nation. These clauses have no connection with the general powers and rights of sovereignty delegated to the new government, and can neither enlarge or diminish them. They were inserted to meet a present necessity, not to regulate its powers as a government."<sup>2</sup>... Consequently the power which Congress may have lawfully exercised in this territory, (Missouri) while it remained under a territorial government and which may have been sanctioned by judicial decision can furnish no justification and no argument to support similar exercise of power over territory afterwards acquired by the federal government.<sup>3</sup>

- |   |        |     |   |                            |               |
|---|--------|-----|---|----------------------------|---------------|
| 1 | Weil   | 12. | 4 | See also                   |               |
| 2 | Howard | 393 |   | Fletcher vs. Peck          | 6 Cranch 89   |
| 3 | Ibid   | 442 |   | Mitchell vs. United States | 9 Peters 711  |
|   |        |     |   | Clark vs. Smith            | 13 Peters 195 |
|   |        |     |   | Latimer vs. Poeteet        | 14 Peters 4   |
|   |        |     |   | Jackson vs. Porter         | 1 Paine 437   |
|   |        |     |   | Blair vs. Pathkiller       | 5 Yaeger 236  |
|   |        |     |   | Vanhorn vs. Dorrance       | 2 Dallas 304  |
|   |        |     |   | Choteau vs. Maloney        | 16 Howard 203 |
|   |        |     |   | Godfrey vs. Beardsley      | 2 McLean 413  |







Chief Justice Marshall had already rendered in the case of Johnson vs. McIntosh the following decision which Judge Taney was trying to combat:

"The power now possessed by the government of the United States to grant lands resided while we were colonies in the Crown or its grantees. The validity of the titles given by either have never been questioned in the courts. It has been exercised uniformly over territory in the possession of the Indians. The existence of this power must negative the existence of any right which may conflict with or control it. An absolute title to lands cannot exist at the same time in different persons or in different governments. An absolute must be an exclusive title or at least a title which excludes all others not comparable with it."

The ill effects of the state rights theory as applied to the Indians showed itself under the worst conditions in the struggle between Georgia and the Indians within its borders. (This topic will be discussed in detail under Removal of the Indians.) To the student it is evident that too many kinds of law working either against one another or even in conjunction with one another, make any one of them ineffective.





Washington's policy of conciliation was followed by his immediate successors. That meant that treaty-making was the most important part of that policy, involving the reservation idea, not so much in consideration with removal as in Jackson's day, although that method was used in a few instances, but rather reservations made with the special purpose of keeping the whites out of lands already occupied by the Indians. In return for recognition by the United States government of their right to these reservations, the Indians usually ceded land to it. In fact all of the treaties through 1809, and many afterwards, included land cessions.<sup>1</sup> The evidence all points to the fact that from the time that the Constitution was put into effect until the act of March 3, 1871, which made future treaty making with the Indians illegal, Indian titles to land were extinguished only under the treaty making clause of this document. The difference between the reservation title and the original right of occupancy lies in the fact that the former title is acquired directly from

1 Kappler II 105-  
Manypenny 86







1  
the United States.

Treaty making with the natives, even if the land was almost insignificant in size, was always phrased in the language suitable to treaty making with an important European power. 2

1 Royce 642

Report of Indian Commission 1890 (XIX) shows 160 reservations already established. Of these 51 were made by treaty agreement

1 was made by unratified treaty

5 were made by treaty or agreement legalized by act of Congress

15 were made by treaty with boundaries defined or enlarged by Executive Order.

All others by Executive Order or by Executive Order under authority from Congress.

2 For example--"Whereas a treaty between the United States of America and the Mingoes, chiefs, captains, warriors of the Choctaw nation, was entered into at Dancing Rabbit creek, on the twenty-seventh day of September, in the year of our Lord one thousand eight hundred and thirty, and of the independence of the United States, the fifty-fifth, by John H. Eaton and John Coffee, commissioners on the part of the United States and the chiefs, captains, and head men of the Choctaw nation, on the part of the said nation; which treaty together with the supplemental article thereto, is in the words following, to wit.....

Now therefore, be it known that I, Andrew Jackson, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed by their resolution of the twenty-first day of February, one thousand eight hundred and thirty-one, accept, ratify and confirm the same, and every clause and article thereof, with the exception of the preamble. In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington, this twenty-fourth day of February, in the year of our Lord one thousand eight hundred and thirty-one, and of the independence of the United States the fifty-fifth.

Andrew Jackson

By the President

Martin Van Buren Secretary of State"







Earlier Indian treaties were only accepted or rejected by the Senate as is customary in treaty making but when the annuity and factory principle made added expense, the House insisted that Congress as a whole should ratify, not merely the Senate. In Washington's administration, Congress voted to put the Bureau of Indian Affairs under the Secretary of War. It remained under his control until 1849, when it was transferred to the Department of the Interior. The Indian service is a sort of government within a government, transacting a great variety of business in behalf of the Indians.

In 1801, we find the first preemption law. Preemption was closely associated with treaty making and reservations. Almost as soon as reservation treaties had been made with the Indians, settlers began to come into these territories, slowly at first and then rapidly. In some cases, they were already there when these reservations were set aside. Legally, of course, these settlers were

1 Dodge XVIII 3

"It is a combination, probate court, a trust company, agricultural and live stock corporation, mining company, oil concern, timber organization, public health service, irrigation promoter, public roads commission, developer of natural resources, purchasing agent, town builder, municipal court, police department, board of county commissioners, orphan asylum, relief and aid society, philanthropical association, bank and employment agency". McDowell 3

2 Paxson Indian Frontier 387















Land ceded by this cession overlaps the tract ceded by the Chippewa by treaty of Sept. 24, 1819  
The U.S. grants from this second cession 19 sections of land to certain individuals

The Potowamies cede to the U.S. their title and interest to lands in the state of Indiana and in the territory of Michigan S. of Grande River

Potawaties

Potawaties

Potawaties

Land ceded to U.S. by Wyandot

cession was by the main Kickapoo. with later n was of the n Kickapoo. of which in the of this The two are there- solidated rap into one. sion as thus ated overlaps and in the omi cession. 1818 and Oct. It also over Illinois the of 1795 at

Fort and the of the Illinois to the tic and Peoria of 1803 and Kishaw of 1805. indicated on of Illinois- ange-colored on the Indians by line.

This was an indefinite claim and was more specifically covered by the cessions of other tribes.

The Provision below practically reserves from this cession the Me-to-sin-ia tract.

Miami

The Miami nation of Indians ceded to the U.S. the following tracts of land as shown by a red, numbered line.

Vermillion R.

Raccoon Creek

The foregoing tribes ceded to the U.S. all that tract of country between the boundaries. this also is indicated by a red line.

Delaware Potawaties  
Miami and Eel River  
Miami

This was an indefinite reservation and was never more specifically defined.

Vincennes

This cession was concurred in by the Piankishaw, Aug. 27, 1804, and by the Miami, Aug. 21, 1805

By "Additional Article" it was agreed that this line should not cross the Embarras or Drift. Wood Fork, or White River, such an alteration in the direction of the said line is to be made as will leave the Indian of said Fork in the territory.

Dispute as to the boundaries of this tract by treaty of 1803

Land ceded to U.S. in 1809 by the Osages.

The tract herein ceded comprised the eastern and southern portions of Ohio embracing nearly 1/3 of the state, and a triangular piece of land in southeastern Indiana.

INDIANA







only "squatters", but once they had established themselves, and made improvements, they began to bring pressure to bear on Congress to legalize their claims and protect what they called their rights. This could be done by law only after the Indian title had been quieted and the land surveyed by the United States.

The theory of preemption was that certain persons already occupying parts of public lands at the time the surveys were made, had an equity in their improvements on that land sufficient to entitle them to protection

by law.<sup>1</sup> Congress acquired the habit of allowing these preemption rights by special act, giving these occupiers the right to buy their land at a minimum rate....This preemption privilege made it practically impossible to hold back the general rush of settlers until the advertised date for sale, when it was common knowledge that those who could evade the guards would be allowed to profit by breaking the law. Legally, however, only after the regular period of advertisement and proclamation the area was opened for settle-

1 Paxson Indian Frontier 291







1  
ment. Ohio and Indiana give perhaps the best example

- 1 United States Statutes at Large 21 797 Kappler II 937  
Typical Proclamation to prevent trespassing within  
Indian territory.

By the President of the United States of America.

A Proclamation.

Whereas it has become known to me that certain evil disposed persons have within the territory and jurisdiction of the United States, begun and set on foot preparations for an organized and forcible possession of, and settlement upon lands of what is known as Indian territory, west of the State of Arkansas, which territory is designated, recognized and described by the treaties and laws of the United States, and by the Executive Authorities, as Indian Country, and as such, is only subject to occupation by Indian tribes, officers of the Indian Department, military posts and such persons as may be privileged to reside and trade therein under the intercourse laws of the United States;

And whereas these laws provide for the removal of all persons residing and trading therein without express permission of the Indian Department and agents, and also of all persons whom such agents may deem to be improper persons to reside in the Indian Country; Now therefore, for the purpose of properly protecting the interests of the Indian nations and tribes, as well as the United States in said Indian territory, and of duly enforcing the laws governing the same, I, Rutherford B. Hayes, President of the United States, do admonish and warn all such persons so intending or preparing to remove or settle upon any of the said lands or into said territory, without permission to remove upon said lands or into said territory without permission of the proper agent of the Indian Department, against any attempt to so remove or settle upon any of the lands of said territory; and I do further warn and notify any and all such persons who may offend, that they will be speedily and immediately removed therefrom by the agent according to the laws made and provided; and if necessary, the aid and assistance of the military forces of the United States will be invoked to carry into proper execution the laws of the United States herein referred to.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-sixth day of April, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

Rutherford B. Hayes

By the President

William Evarts, Secretary of State.



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

REPORT OF THE  
COMMISSIONER OF THE  
BUREAU OF LAND MANAGEMENT  
FOR THE YEAR 1907

THE BUREAU OF LAND MANAGEMENT  
HAS THE HONOR TO ACKNOWLEDGE  
THE RECEIPT OF THE  
REPORT OF THE  
COMMISSIONER OF THE  
BUREAU OF LAND MANAGEMENT  
FOR THE YEAR 1907  
AND TO TRANSMIT THE SAME  
TO THE SENATE AND HOUSE OF  
REPRESENTATIVES  
IN ACCORDANCE WITH THE  
ACT OF MARCH 3, 1879  
AND THE ACT OF MARCH 3, 1897

THE BUREAU OF LAND MANAGEMENT  
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AND THE ACT OF MARCH 3, 1897



of these preemption conditions, in its early history. The influence of the preemptioners, coupled with that of the states, like Georgia and Kentucky who were demanding<sup>1</sup> removal of the Indians, caused Congress to make new treaties with the Indians and open up the

Footnote 1 of page 62 (continued)

For typical Proclamation declaring lands open for settlement see Kappler 940-942.

.....Now therefore, I, Benjamin Harrison, President of the United States by virtue of the power in me vested by said Act of Congress, approved March 2, 1899, aforesaid, do hereby declare and make known, that so much of the lands, aforesaid acquired from or conveyed by the Muscogee (or Creek) Nation of Indians, and from or by the Seminole Nation of Indians, respectively, as is contained within the following boundaries, viz.....will at and after the hour of twelve o'clock noon, of the twenty-second day of April next, and not before, be open for settlement, under the terms of and subject to, all the conditions, limitations and restrictions contained in said act of Congress, approved March second, eighteen hundred and ninety-nine, and the laws of the United States applicable thereto.....

Warning is thereby again expressly given that no person entering upon and occupying said lands before said hour of twelve o'clock noon of the twenty-second day of April A.D. eighteen hundred and eighty-nine, herein before fixed, will ever be permitted to enter any of the said lands or acquire any rights thereto; and that the officers of the United States will be required to strictly enforce the provision of the Act of Congress to the above effect.

In witness thereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Benjamin Harrison

1 Paxson Indian Frontier 388-390







Sold under act of Eng. 1816  
 Approved April 27, 1816

This cession of land ceded to the U.S. by the Cherokee tribe of Tennessee, one of which overlapped Colbert's reservation under Chickasaw treaty of 1805.

The Potawatomi, Ottawa, and Chippewa tribes ceded to U.S. this tract of land

Land ceded U.S. by Miami Indians of

The Indian title to this tract was extinguished at the same time with that of the two preceding tracts and at a cost to the U.S. of somewhat more than one cent per acre.

The Indian title to the not remaining portion had not been ceded until relinquished by this treaty of July 4, 1805.

The tract herein ceded comprised the eastern and southern portions of Ohio, embracing nearly two-thirds of the state, and a triangular piece in southeastern Indiana.

Map of  
 OHIO





old territory to settlers.<sup>1</sup> In auctioning off these new lands, the law gave the preemptioners the first chance to buy the land upon which they had settled. The acquiring of lands by preemptioners from the Indians, was made easier after the Supreme Court decisions were rendered to the effect that the Indians were not owners of the soil occupied by them, but all vacant or unoccupied territory belonged to the United States.<sup>2</sup> Some decisions went further declaring that the Indians were incompetent to transfer any rights to soil, such conveyance being null and void since the right of property was not "subsisting in the grantees".<sup>3</sup>

It is evident that the Indians and white settlers could not live peaceably as near neighbors. The basic conditions of their methods of acquiring a livelihood would prevent that. If for no "other reason than that the white farmers killed off and drove away their game,<sup>4</sup> their appearance spelled disaster for Indian hopes". Every misstep made by a single tribe was followed immediately by demands from the white settlers for pay-

1 Ibid 288

2 United States vs Rogers 4 567

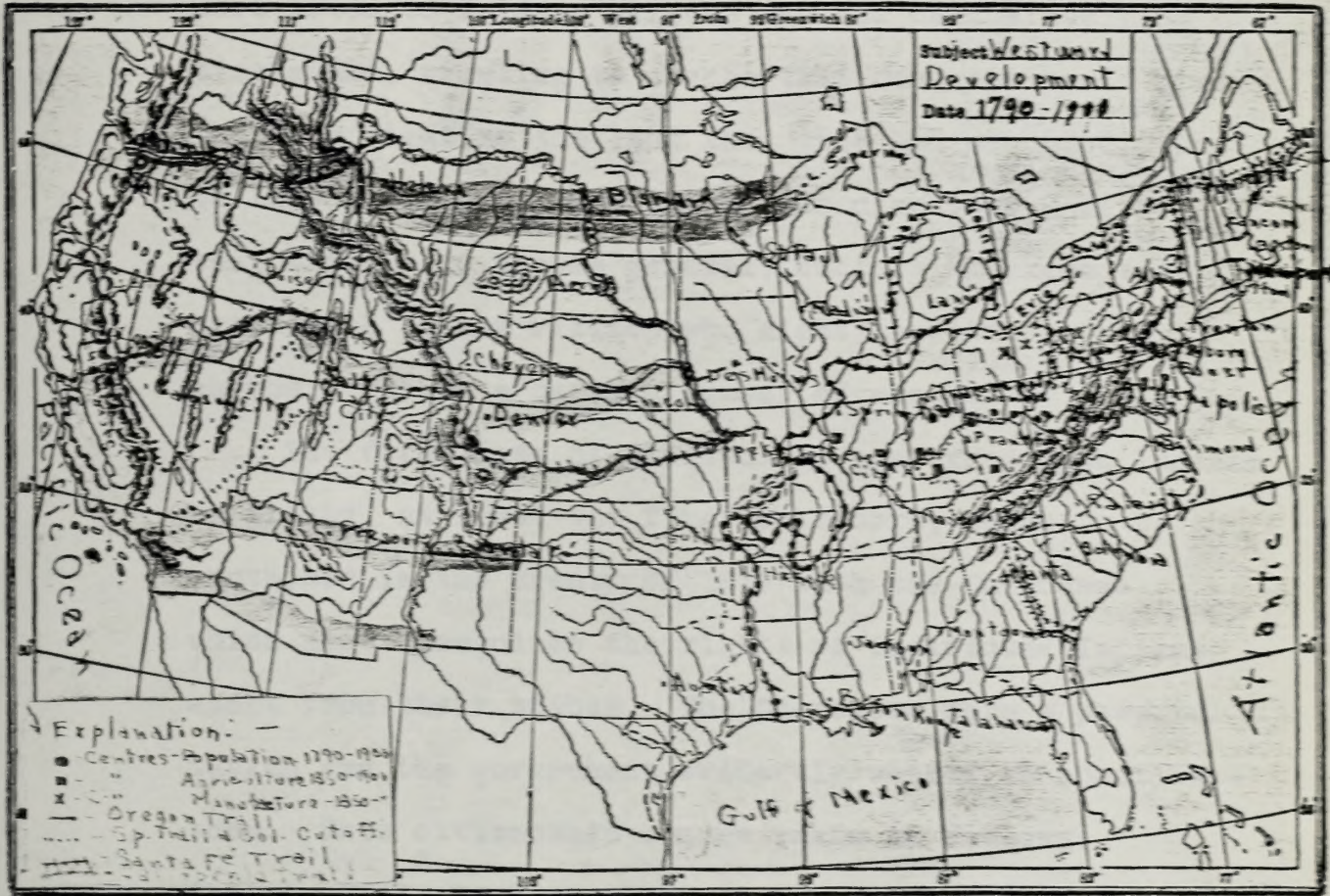
3 Johnson vs McIntosh 8 Wheaton 543

4 Paxson Indian Frontier 159





McKinley's Geographical and Historical Outline Maps. No. 175a. United States (physical features and State boundaries).



54 47145







ments for damages in the form of land cessions, and, that even though their own depredations against the Indians had caused as much damage to them as what they themselves had received.

Before 1841, as the result of political pressure, Congress had passed sixteen similar special preemption acts, sometimes to help those in real distress, but more often to relieve persons who had deliberately trespassed, trusting to chance that Congress would give them the right to the land that they had occupied. Up to 1830 these acts were special in character. After that time, they became general, conferring preemption privileges on any citizen who might have trespassed<sup>1</sup> anywhere within a certain number of months.

The first case of citizenship conferred upon Indians by treaty, at least the first on record, seems to be contained in the Treaty of 1817 with the Cherokees which also recognizes the rights of individual Indians apart from their tribes. The Cherokees were a powerful nation and the government evidently wanted to conciliate them. This citizenship clause reads as follows:

<sup>2</sup>  
Article VIII "And to each and every head of any Indian family residing on the east side of the Mississippi

1 Paxson Indian Frontier 288

2 Kappler II 143



about the damage in the case of the ...  
that even though they are ...  
Lodians had caused as much damage as they ...  
they themselves had ...

Before 1941, as the result of ...  
Congress had passed ...  
also, ...  
also offered to ...  
disappeared, ...  
then the right to ...  
in 1930 these ...  
that ...  
citizens on ...  
anywhere within a ...

The first ...  
by treaty, ...  
contained in the ...  
which also ...  
about ...  
action and the ...  
then ...  
article VII ...  
locality ...

I ...  
S ...



river, on the lands that are now, or may hereafter be, surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of six hundred and forty acres of land, <sup>1</sup> in a square to include their improvements, which are to be as near the centres thereof as practicable, in which they will have a life estate, with a dower, with a revision in fee simple to their children, reserving to the widow her dower, the register of whose names is to be filed in the office of the Cherokee agent, which shall be kept open until the census is taken as stipulated in the <sup>2</sup> third article of this treaty. Provided, that, if any of the heads of families for whom reservations may be made, should remove therefrom, in that case, the right to revert to the United States. And provided

1 of Ordinance Preemption for citizens

2 Article 3 typical of census clauses taken under similar instances.

Kappler II 142. "It is also stipulated by the contracting parties that a census shall be taken of the whole Cherokee nation, during the month of June in the year of our Lord one thousand eight hundred and eighteen, in the following manner, viz: that the census of those on the east side of the Mississippi who declare their intention of remaining shall be taken by the commissioner appointed by the President of the United States, and a commissioner appointed by the Cherokees on the Arkansas river; the census of Cherokees on the Arkansas river, and those removing there, and, who at that time declare their intention of removing there, shall be taken by a commissioner appointed by the President of the United States and one appointed by the Cherokees east of the Mississippi River."







further, that the land which may be reserved under this article be deducted from the amount which has been ceded under the first and second articles of this treaty."

We find similar cession of land clauses repeated again and again in treaties but the belligerent policy of Jackson and his successors together with that of the state rights theorists, seem to have brought about elimination of the citizenship clause from later treaties as far as whole groups of Indians were concerned. For generations there had been a few Indians, so called, remaining when the nation as a whole had removed, who became citizens themselves or their children did because of their mixture with the white blood. Even in a<sup>1</sup> "closed" reservation we find white citizens who have bought the allotments of deceased Indian allottees under the rules and regulations of the Indian Bureau, which administers the estates of deceased Indians by virtue<sup>2</sup> of Congressional acts. Allotments of land in severalty could only be made by treaty or by authority conferred by act of Congress prior to the year 1887, when such<sup>3</sup> power was given to the Commissioner of Indian affairs.

1 A reservation where all the lands have been distributed  
pro rata  
2 McDowell 5  
3 Royce 642



Further, that the land which was to be reserved under the  
act should be located in the western part of the State and  
under the first and second sections of the act.  
The first section provided that land should be reserved  
again and again in sections and the following section  
of the act and his committee reported the year of 1890  
that rights reserved, were to be reserved under  
elimination of the following clause that land should  
as far as whole groups of Indians were concerned, the  
reservation must be such as to include, as far as  
possible, the entire group of Indians and families, and  
become citizens themselves or their children and families  
of their lands with the white people. There is a  
"reservation" to that white citizens and have  
bought the interests of themselves and their families under  
the rules and regulations of the Indian Bureau and  
abolish the system of reservation and the  
of Congressional acts. Allotment of land in severalty  
could only be made by treaty or by legislative enactment  
by act of Congress after the year 1890, and the  
power was given to the President of the United States

I A reservation shall not be made under this act  
who shall  
S. H. H. H.  
S. H. H. H.  
S. H. H. H.



The first case of allotments of land in severalty occurred in the treaty with the Sauks<sup>1</sup> Fox, Sioux, etc., on July 15, 1830, legalized by act of Congress of July 1854. It is significant that these Indians were half breeds. There had been grants to individuals<sup>2</sup> before such as chiefs, Indian wives of whites, or half breeds, but not to individual half breeds in the groups, i.e. Article IX "The Sioux have earnestly solicited that they might have permission to bestow upon the half Breeds of their Nation, the tract of land within the following limits.....; the United States agree to suffer said half Breeds to occupy said tract of country, they holding by the same title, and in the same manner that other Indian titles are held."<sup>3</sup> Between this treaty of July 1830, and the Treaty Act of 1871,<sup>4</sup> there were about sixty-five such acts.

- 1 United States Statutes at Large 7 328 Articles IX and X Act of Congress July 1854 Section 5
- 2 Ibid 7 317
- 3 Article X does for Omahas and others of the confederation what article IX does for the Sioux
- 4 United States Statutes at Large  
VII 330-551  
IX 955  
X 332-1173  
XI 664  
XII 1228  
XIII 623  
XIV 668-805  
XV 506-693  
XVI 709-721



The first case of influenza at least in 1918-19  
occurred in the treaty with the United States  
etc., on July 12, 1918, according to the  
of July 1918. It is significant that the  
were half passed. There was some doubt as to whether  
before some as well as United States of America  
half passed, and not as United States of America  
Group, i.e. Article 12. The United States  
admitted that they might have something to say  
when the half passed to United States, and that at least  
within the following limits. The United States  
agree to enter into such a treaty as might be made  
of country, they belong to the same family, and in the  
have agreed that other United States are half. Before  
this treaty of July 1918, and the treaty of July 1918  
there were some alternative and more.

1. United States proposed at least 7 and Article 12 and  
2. Let of American July 1918 Article 12  
3. Article 12 was for the same and content of the treaty  
4. United States proposed at least  
VII 1918-1919  
IX 1918-1919  
X 1918-1919  
XI 1918-1919  
XII 1918-1919  
XIII 1918-1919  
XIV 1918-1919  
XV 1918-1919  
XVI 1918-1919



The general tendency especially in the fifties and sixties was to make such allotment optional with the Indians themselves.

The civil status of the Indians has been defined by a long series of statutes and court rulings. In the Cherokee Nation vs. Georgia,<sup>1</sup> and Worcester vs. Georgia cases,<sup>2</sup> the Supreme Court of the United States held that the Indian tribes residing in the United States were recognized in "some sense as political bodies, not as foreign nations....." There was some question as to whether Amendment XIV of the Constitution did or did not change the status of the Indian. In December 1870, Senator M.H. Carpenter reporting for the Senate Judiciary Committee said, "In the opinion of your Committee, the fourteenth amendment to the Constitution has no effect whatever upon the status of the Indians within the limits of the United States and does not annul the treaties previously made by the United States with them."<sup>3</sup> The United States government may even tax the property of Indians, as it would its own citizens as far as internal revenue is concerned anywhere within the extreme boundaries of the United States, even though

1 Cherokee vs Georgia 5 Peters 1

2 Worcester vs Georgia 6 Peters 515

3 Sustained by United States vs Osborne 6 Sawyer 406







there should be an Indian treaty to the contrary.<sup>1</sup>

In the early Indian treaties made under the Constitution, the emphasis was laid upon their independent status.<sup>2</sup> Gradually they became mere wards, unprotected by international law or the federal courts, depending for political existence on the kindness of our nation so that treaties with them became mere forms. All future Indian treaties were declared unconstitutional by the act of March 3, 1871, although all treaties made before this time were validated. We have agreements that seem little different from these earlier treaties, but they do not recognize the tribes as independent nations.<sup>3</sup>

1 John Eaton's Commission of Indian Affairs-1877 reports the Indian population outside of Alaska to 1816 as follows:

1820	Report of Morse on Indian Affairs	471,036
1825	Report of Secretary of War	129,366
1829	Report of Secretary of War	312,930
1834	Report of Secretary of War	312,610
1836	Report of Superintendent of Indian Affairs	253,464
1837	Report of Superintendent of Indian Affairs	302,498
1850	Report of H.R. Schoolcraft	388,229
1865	Indian Office	294,574
1870	United States Census not judicial	(313,712)
1870	Indian Office agreement	(313,371)
1875	Indian Office	305,068
1876	Indian Office	291,882

Average 315,000  
about 63,000 families at 5 to one family

2 Weil 32

3 Donaldson 240 Bulletin 24 Indian Affairs  
Weil 19



There would be an Indian agency in the country  
 In the early Indian period this was the  
 Government, the agency was held upon their  
 independent status. Actually the Indian was  
 made, independent of administrative law of the  
 Federal Government, dependent for political relations  
 on the change of the Indian of the Indian  
 then became more free. In the Indian period  
 was decided administratively by the act of the  
 1871, although all Indian were below the law  
 were validated. We have evidence that until  
 different from some other countries, but they  
 not recognize the right of independent action

I. John Nelson's Commission of Indian Affairs-1871

reports the Indian population number of Alaska  
 as follows:

1830	Report of Nelson on Indian Affairs 47,000
1835	Report of Nelson on Indian Affairs 47,000
1840	Report of Nelson on Indian Affairs 47,000
1845	Report of Nelson on Indian Affairs 47,000
1850	Report of Nelson on Indian Affairs 47,000
1855	Report of Nelson on Indian Affairs 47,000
1860	Report of Nelson on Indian Affairs 47,000
1865	Report of Nelson on Indian Affairs 47,000
1870	Report of Nelson on Indian Affairs 47,000
1875	Report of Nelson on Indian Affairs 47,000
1880	Report of Nelson on Indian Affairs 47,000
1885	Report of Nelson on Indian Affairs 47,000
1890	Report of Nelson on Indian Affairs 47,000
1895	Report of Nelson on Indian Affairs 47,000
1900	Report of Nelson on Indian Affairs 47,000
1905	Report of Nelson on Indian Affairs 47,000
1910	Report of Nelson on Indian Affairs 47,000
1915	Report of Nelson on Indian Affairs 47,000
1920	Report of Nelson on Indian Affairs 47,000
1925	Report of Nelson on Indian Affairs 47,000
1930	Report of Nelson on Indian Affairs 47,000
1935	Report of Nelson on Indian Affairs 47,000
1940	Report of Nelson on Indian Affairs 47,000
1945	Report of Nelson on Indian Affairs 47,000
1950	Report of Nelson on Indian Affairs 47,000
1955	Report of Nelson on Indian Affairs 47,000
1960	Report of Nelson on Indian Affairs 47,000
1965	Report of Nelson on Indian Affairs 47,000
1970	Report of Nelson on Indian Affairs 47,000
1975	Report of Nelson on Indian Affairs 47,000
1980	Report of Nelson on Indian Affairs 47,000
1985	Report of Nelson on Indian Affairs 47,000
1990	Report of Nelson on Indian Affairs 47,000
1995	Report of Nelson on Indian Affairs 47,000
2000	Report of Nelson on Indian Affairs 47,000
2005	Report of Nelson on Indian Affairs 47,000
2010	Report of Nelson on Indian Affairs 47,000
2015	Report of Nelson on Indian Affairs 47,000
2020	Report of Nelson on Indian Affairs 47,000
2025	Report of Nelson on Indian Affairs 47,000
2030	Report of Nelson on Indian Affairs 47,000
2035	Report of Nelson on Indian Affairs 47,000
2040	Report of Nelson on Indian Affairs 47,000
2045	Report of Nelson on Indian Affairs 47,000
2050	Report of Nelson on Indian Affairs 47,000
2055	Report of Nelson on Indian Affairs 47,000
2060	Report of Nelson on Indian Affairs 47,000
2065	Report of Nelson on Indian Affairs 47,000
2070	Report of Nelson on Indian Affairs 47,000
2075	Report of Nelson on Indian Affairs 47,000
2080	Report of Nelson on Indian Affairs 47,000
2085	Report of Nelson on Indian Affairs 47,000
2090	Report of Nelson on Indian Affairs 47,000
2095	Report of Nelson on Indian Affairs 47,000
2100	Report of Nelson on Indian Affairs 47,000

Average 47,000  
 about 47,000 families or 235,000 people

2. John Nelson's Commission of Indian Affairs-1871

reports the Indian population number of Alaska  
 as follows:

1830	Report of Nelson on Indian Affairs 47,000
1835	Report of Nelson on Indian Affairs 47,000
1840	Report of Nelson on Indian Affairs 47,000
1845	Report of Nelson on Indian Affairs 47,000
1850	Report of Nelson on Indian Affairs 47,000
1855	Report of Nelson on Indian Affairs 47,000
1860	Report of Nelson on Indian Affairs 47,000
1865	Report of Nelson on Indian Affairs 47,000
1870	Report of Nelson on Indian Affairs 47,000
1875	Report of Nelson on Indian Affairs 47,000
1880	Report of Nelson on Indian Affairs 47,000
1885	Report of Nelson on Indian Affairs 47,000
1890	Report of Nelson on Indian Affairs 47,000
1895	Report of Nelson on Indian Affairs 47,000
1900	Report of Nelson on Indian Affairs 47,000
1905	Report of Nelson on Indian Affairs 47,000
1910	Report of Nelson on Indian Affairs 47,000
1915	Report of Nelson on Indian Affairs 47,000
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1975	Report of Nelson on Indian Affairs 47,000
1980	Report of Nelson on Indian Affairs 47,000
1985	Report of Nelson on Indian Affairs 47,000
1990	Report of Nelson on Indian Affairs 47,000
1995	Report of Nelson on Indian Affairs 47,000
2000	Report of Nelson on Indian Affairs 47,000
2005	Report of Nelson on Indian Affairs 47,000
2010	Report of Nelson on Indian Affairs 47,000
2015	Report of Nelson on Indian Affairs 47,000
2020	Report of Nelson on Indian Affairs 47,000
2025	Report of Nelson on Indian Affairs 47,000
2030	Report of Nelson on Indian Affairs 47,000
2035	Report of Nelson on Indian Affairs 47,000
2040	Report of Nelson on Indian Affairs 47,000
2045	Report of Nelson on Indian Affairs 47,000
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2070	Report of Nelson on Indian Affairs 47,000
2075	Report of Nelson on Indian Affairs 47,000
2080	Report of Nelson on Indian Affairs 47,000
2085	Report of Nelson on Indian Affairs 47,000
2090	Report of Nelson on Indian Affairs 47,000
2095	Report of Nelson on Indian Affairs 47,000
2100	Report of Nelson on Indian Affairs 47,000

Average 47,000  
 about 47,000 families or 235,000 people



This law declared that the Indians were wards of the government and subject to its control, and also that the state legislatures had no jurisdiction over the Indian territory within its borders.<sup>1</sup>

The mistakes in Indian policy may be summed up as follows:

1. Making treaties with them as independent nations.
2. Making reservations for them and then insisting that they should move on leaving them continually in a dissatisfied and restless condition.
3. Allowing them too much territory in their reservations where the best policy would have been to assign land individually, thus breaking up tribal relations.

- 1 New York vs Dibble 2 Howard 366. Decided that the state had sovereign authority over the person and property of the Indians as far as it was necessary to preserve the peace and protect them from imposition and intrusion. In 1874 we find according to Walker's report---(Walker 7 and McKenzie 17)
  - 130,000 Indians self supporting on Indian reservations (only government aid-annuities granted for former land cessions.)
  - 31,000 Indians entirely supported by the United States Government
  - 81,000 Indians partly supported by the United States Government
  - 55,000 Indians living by hunting and fishing and other ways
  - 150,000 Indians on reservations
  - 95,000 Indians coming to reservations for food and visits
  - 55,000 (of above) absolutely uncontrolled by government
  - 180,000 Indians under treaty
  - 40,000 Indians not under treaty
  - 25,000 Indians partly controlled but not on reservations
  - 97,000 Indians civilized
  - 125,000 Indians semi-civilized
  - 78,000 Indians barbarians







4. Payment of annuities in money or supplies.<sup>1</sup>

1 Ellis 587-570

The largest reservations are

Navajo	Arizona and New Mexico	8,689,977 acres
San Juan (Navajo)	Arizona and New Mexico	2,300,000
Blackfeet	Montana	1,493,387
Crow	Montana	2,313,213
Pine Ridge (Sioux)	South Dakota	2,367,148
	(Sioux) South Dakota	1,784,063
Hopi (Navajo)	Arizona	2,472,320
Papajo	Arizona	2,649,600

Note all reservations established by

1. Treaties or
2. Agreements between United States and Indians ratified by Congress, force of treaties
3. Executive orders
4. Purchase ordered by Congress (includes small tracts for homeless Indians, mostly in California) See map.



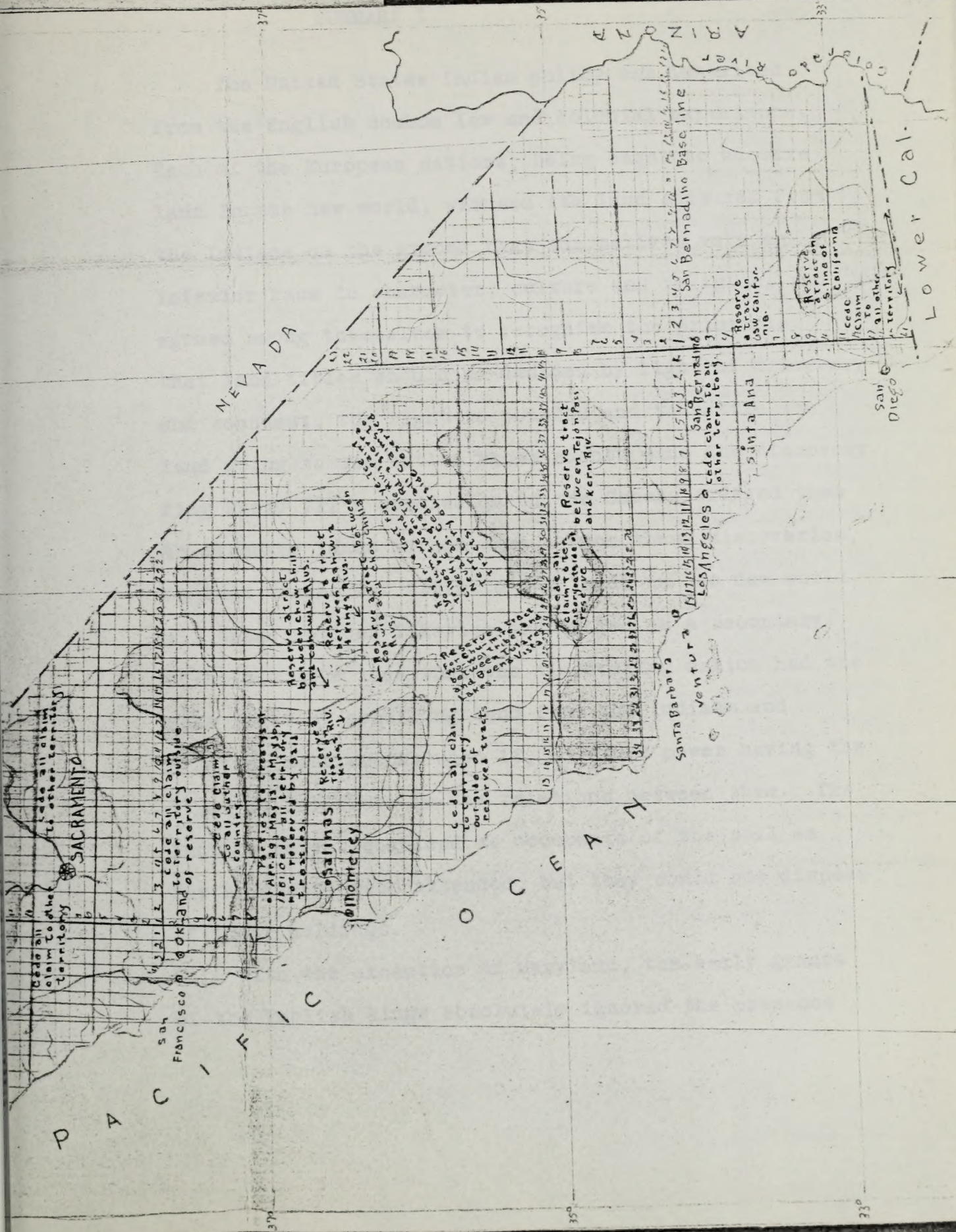


















## SUMMARY I

The United States Indian policy was inherited from the English common law and colonial experience. Each of the European nations, being eager to acquire land in the new world, excused its land seizures from the Indians on the ground that the natives were an inferior race in character, culture and religion, and agreed among themselves to recognize the principle that land titles should be decided by right of discovery and conquest, the right to possess and to settle the land going to the nation whose agents made the discovery. King Henry VII's commission to the Cabots ordered them to discover lands in his name. From these discoveries, England traced her title to her lands in the new world. All these nations likewise recognized as a secondary principle, the idea that the discovering nation had the sole right of acquiring land from the Indians and planting settlements upon it, no other power having the right to interfere in the relations between them. The Indians were recognized as occupants of the soil as far as their needs extended, but they could not dispose of their holdings.

With the exception of Maryland, the early grants of the English kings absolutely ignored the presence



The United States Indian policy was the result of the English system of land and colonial expansion. Each of the European nations, being more or less, led in the new world, secured the land rights. The Indians on the ground that the natives were an inferior race in character, culture and religion, acted among themselves to recognize the principle that land title should be decided by right of discovery and conquest, the right to possess and to settle. Land going to the nation whose agents made the discovery. King Henry VII's declaration in the century before that to discover lands be his name. From these principles, England secured her title to her lands in the new world. All these nations likewise recognized as a principle, the fact that the discovering nation had the sole right of sovereignty over the land. The Indians had planting settlements upon it, so that power being the right to interfere in the relations between them. The Indians were recognized as the owners of the land as far as their needs extended, and they could not dispose of their surplus.

With the exception of Germany, the only source of the English king's authority against the natives



of the Indians but even in that case, there was no consideration shown for the Indians' welfare.

Eventually, the Crown established the principal that it had the sole right to purchase tribal lands and to sell to the colonists. The British Board of Trade recommended to the King that general directions should be given the governors not to permit purchase of Indian lands or settlement within them by private individuals, which became the general policy of England after 1763.

There is great uncertainty about these early colonial purchases from the Indians because of the lack of land records. Some colonies considered principally the idea of satisfying the claims of the Indians; others, the idea of getting as much land as possible through treaties made with them. Many of the colonies forbade purchase of land from the Indians except through grant by the general court, or legislature, for example Maryland, Virginia, etc. New Jersey and Pennsylvania made agreements that were apparently satisfactory to the Indians for they were not troubled by Indian Wars.

The Continental Congress followed colonial experience in making treaties with the Indians, regarding them as independent nations. One of its first acts was to create an Indian Bureau under the Department of War - Article IX







of the Articles of Confederation gave Congress the power of regulating trade and managing Indian affairs while the Proclamation of September 22, 1783 forbade settlements within Indian reservations or purchase or cession of any lands within the same, except with the consent of Congress. (All the treaties made by the Congress of the Confederation laid emphasis on cessions to the United States in return for recognition of Indian reservations, to be unmolested by white settlers; the Indians declaring themselves under the protection of the United States, and recognizing the right of Congress to regulate trade with them.)

The Constitution says little about Indian relations, the only specific reference giving Congress the power to regulate trade with them as under the Confederation. The power to act is found in a broad construction interpretation of the clause relative to the making of treaties and the general powers granted to Congress. Marshall takes the view, also Story, that as a natural consequence, the government must have the right to govern what it has acquired by treaty. The United States, however, may not make any treaty violating the Constitution. Treaties with the Indians have been recognized as treaties by the Supreme Court which makes them legally, then, a part of the supreme law of the land. The fact that there are more than three hundred







and seventy treaties between the United States and the Indian tribes on the Statute books, together with more than two thousand specific laws relating to them, to say nothing of court decisions, congressional enactments, decisions of the Comptroller of the Treasury, opinions of the Attorney-General, Executive Orders, etc., gives some idea of the importance of Indian relations.

The status of the Indians has gone through three distinct stages--1. that of separate nations; 2. wards; 3. citizens. The situation of the Indians as wards has a peculiar significance in that as a general rule in law, wards may transfer title to land only by the consent of the court. In the case of the Indians, however, the United States is both the guardian and the court, and its decision must be final since there is no authority higher than it is. Reservation of land in an Indian treaty of cession simply secures to those in whose favor the reservation is made, a continued right of occupancy in the land, while the final title rests in the hands of the United States.

The principal criticism of the treaty-system is that the United States is sovereign over the land within certain fixed limits and that we have stultified ourselves by making treaties with them. If we owned the land then treaties were not necessary; if the Indians







did, we have not been fair to them, because they have not been secured in their lands from intrusion as guaranteed them by treaties. The fairest attitude to take toward the question seems to be that the government had the best intentions and purposes towards the Indians and that when failure did occur, it was due primarily to the fact that what the President and Congress wanted to do was not desired by citizens of that part of the country in which the officials wished to put it into effect. The Indians have been most humanely treated when the central government has been strongest; namely, before the federal authority was undermined by state sovereignty theories and when it again asserted its authority. •

Washington's policy of conciliation, peaceful or forced, was followed by his immediate successors. All of the Indian treaties through 1809, involved land cessions by the Indians, and many of them after that time, all Indian titles to land being extinguished under the treaty-making clause of the Constitution. The difference between the reservation title and the original right of occupancy lies in the fact that the former title is acquired directly from the United States. In Washington's administration, Congress voted to put the Indian Bureau under the control of the War Department;





where it stayed until 1849, when it was transferred to the Department of the Interior. This Indian service is a sort of government within a government transacting a great variety and amount of business in behalf of the Indians.

In 1801, we find the first preemption law. The theory of preemption was that certain persons already occupying public lands at the time surveys were made, had an equity in their improvements on that land, sufficient to entitle them to the protection of the law. Congress acquired the habit of allowing them preemption rights by special acts, giving these occupiers of land the right to buy it at a minimum rate prior to general public land sale. By 1841, Congress had passed sixteen other preemption acts, sometimes to help those actually in distress but more often to relieve persons who had deliberately trespassed.

The first case of citizenship granted to Indians occurred as a result of the Treaty of 1817 with the Cherokees. Indians wishing to become citizens could have grants of land (640 acres) similar to those permitted to regular citizens. Before this time and after, half breeds could claim through their white blood. We also find, even in "closed" reservations, citizens who had bought allotments of deceased Indian allottees from the Indian Bureau, as administrator of their estates. Allotments of land in severalty



where it stayed until 1959, when it was transferred  
to the Department of the Interior. This transfer was  
also a part of Government's policy of decentralization  
concerning a great variety and amount of business  
in behalf of the Indians.

In 1961, as part of the first program law, the  
Department of the Interior was given certain powers of  
trusts concerning public lands and the first program law  
made, had an effect on their responsibilities in 1961.  
Sufficient to enable them to be transferred to the  
law. Congress passed the law of 1961, which was  
preservation rights of special interest. This law  
of land the right to buy it as a national park or  
General public land sale. In 1961, Congress had passed  
classen other provisions, such as, questions as to how  
actually in a process had been able to transfer business  
and had deliberately transferred.

The first case of administrative transfer to Interior  
occurred as a result of the Treaty of 1854, which was  
Congress. Indians seeking to prevent certain lands  
have granted of land (and some) which is now  
pertained to the Indian Nations. Before this law was  
enacted, full people could claim through their title  
claim. We also find, even in 1961, that certain  
citizens who had signed agreements of certain Indian  
allotment laws (the Indian Trusts, as mentioned)  
of their transfer. Allotment of land is now



could only be made by treaty or by authority granted by Congress up to the year 1887, the first case of this kind being in the Treaty of July 15, 1830 with the SauksFox, Sioux etc. Between this treaty and the Treaty Act of 1871, there were sixty-five such acts, although such allotments were usually optional with the Indians. There was some question as to whether or not Constitutional Amendment XIV applied to the Indians but court decision holds that it did not. Eventually the Treaty Act of 1871 declared the Indians wards of the government forbidding the further making of treaties with them as independent nations.

could only be made by treaty or by voluntary cession  
by Congress up to the year 1802. The first year in  
this time being in the treaty of 1783, 1790 and  
the Compact, there was a treaty with France and  
the treaty of 1793, there was a treaty with  
Spain, although some attempts were made to negotiate  
with the Indians. There was also a treaty with  
whether or not the Government should buy the land  
to the Indians but could not make any sale to the  
not. Eventually the treaty of 1793 was made  
the Indians were of the Government. Therefore the  
further making of treaties with the Indians was  
national.



## OUTLINE II

### THE INDIAN TREATY POLICY OF THE UNITED STATES FROM WASHINGTON TO MUNROE

- I. General Policy not a credit to the United States
  1. Vacillating, changeable, influenced by demands of politicians and pioneers
  2. Treaty of Fort Harmar, January 1789
- II. Policy of Washington
  1. Conciliation--peaceful, forceful
    - a. Made topic of 1st Inaugural Address
    - b. Sent General Putnam to Wabash with Commission
      1. Negotiations to be based on Treaty of Fort Harmar
      2. Not ratified by Senate--Significance
      3. Failure. Indians insisted on Ohio as boundary
    - c. 1st treaty--with Six Nations at Fort Stannix
      1. Visit of Representatives of Six Nations to Philadelphia to help conciliate other tribes
    - d. Trouble on Wabash
      1. Attitude of Kentucky settlers--Influence of Spanish Intrigue
    - e. Cherokees took refuge with Creeks--Influence of Spanish Intrigue
      1. Treaty of New York
        - (a) Ration system and giving of presents established bad precedent
    - f. Secretary Knox recommended anticipatory purchase of land and removal of Indians
    - g. Congress appropriated \$20,000 to be expended under the direction of the President for annuities, supplies, etc., to carry out treaty program.
  2. Failure in West leads to forceful measures
    - a. Kentucky and Pennsylvania militia under General Harmar sent to Miami country vs. Miami Shawnee and Weas
    - b. St. Clair appointed Major General-- Failure in spite of advice and warning of Washington
    - c. Anthony Wayne, his successor
      1. Careful preparations
      2. Called "Black Snake" by Indians
      3. Battle of Fallen Timbers, August 30, 1794



THE INDIAN TREATY POLICY OF THE UNITED STATES  
FROM WASHINGTON TO ARIZONA

- I. General Policy and a review of the United States
  1. Vagueness, inconsistency, and lack of uniformity of policy
  2. Treaty of 1790, 1794, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025
- II. Policy of Assimilation
  1. General Assimilation
    - a. Assimilation of the Indian as a whole
    - b. Assimilation of the Indian as a race
    - c. Assimilation of the Indian as a nation
    - d. Assimilation of the Indian as a people
    - e. Assimilation of the Indian as a citizen
    - f. Assimilation of the Indian as a man
    - g. Assimilation of the Indian as a woman
    - h. Assimilation of the Indian as a child
    - i. Assimilation of the Indian as a parent
    - j. Assimilation of the Indian as a worker
    - k. Assimilation of the Indian as a soldier
    - l. Assimilation of the Indian as a sailor
    - m. Assimilation of the Indian as a farmer
    - n. Assimilation of the Indian as a merchant
    - o. Assimilation of the Indian as a professional
    - p. Assimilation of the Indian as a public official
    - q. Assimilation of the Indian as a religious leader
    - r. Assimilation of the Indian as a community leader
    - s. Assimilation of the Indian as a social leader
    - t. Assimilation of the Indian as a cultural leader
    - u. Assimilation of the Indian as a political leader
    - v. Assimilation of the Indian as a business leader
    - w. Assimilation of the Indian as a labor leader
    - x. Assimilation of the Indian as a union leader
    - y. Assimilation of the Indian as a party leader
    - z. Assimilation of the Indian as a candidate
  2. Special Assimilation
    - a. Assimilation of the Indian as a soldier
    - b. Assimilation of the Indian as a sailor
    - c. Assimilation of the Indian as a farmer
    - d. Assimilation of the Indian as a merchant
    - e. Assimilation of the Indian as a professional
    - f. Assimilation of the Indian as a public official
    - g. Assimilation of the Indian as a religious leader
    - h. Assimilation of the Indian as a community leader
    - i. Assimilation of the Indian as a social leader
    - j. Assimilation of the Indian as a cultural leader
    - k. Assimilation of the Indian as a political leader
    - l. Assimilation of the Indian as a business leader
    - m. Assimilation of the Indian as a labor leader
    - n. Assimilation of the Indian as a union leader
    - o. Assimilation of the Indian as a party leader
    - p. Assimilation of the Indian as a candidate
- III. Policy of Reservation
  1. General Reservation
    - a. Reservation of the Indian as a whole
    - b. Reservation of the Indian as a race
    - c. Reservation of the Indian as a nation
    - d. Reservation of the Indian as a people
    - e. Reservation of the Indian as a citizen
    - f. Reservation of the Indian as a man
    - g. Reservation of the Indian as a woman
    - h. Reservation of the Indian as a child
    - i. Reservation of the Indian as a parent
    - j. Reservation of the Indian as a worker
    - k. Reservation of the Indian as a soldier
    - l. Reservation of the Indian as a sailor
    - m. Reservation of the Indian as a farmer
    - n. Reservation of the Indian as a merchant
    - o. Reservation of the Indian as a professional
    - p. Reservation of the Indian as a public official
    - q. Reservation of the Indian as a religious leader
    - r. Reservation of the Indian as a community leader
    - s. Reservation of the Indian as a social leader
    - t. Reservation of the Indian as a cultural leader
    - u. Reservation of the Indian as a political leader
    - v. Reservation of the Indian as a business leader
    - w. Reservation of the Indian as a labor leader
    - x. Reservation of the Indian as a union leader
    - y. Reservation of the Indian as a party leader
    - z. Reservation of the Indian as a candidate
  2. Special Reservation
    - a. Reservation of the Indian as a soldier
    - b. Reservation of the Indian as a sailor
    - c. Reservation of the Indian as a farmer
    - d. Reservation of the Indian as a merchant
    - e. Reservation of the Indian as a professional
    - f. Reservation of the Indian as a public official
    - g. Reservation of the Indian as a religious leader
    - h. Reservation of the Indian as a community leader
    - i. Reservation of the Indian as a social leader
    - j. Reservation of the Indian as a cultural leader
    - k. Reservation of the Indian as a political leader
    - l. Reservation of the Indian as a business leader
    - m. Reservation of the Indian as a labor leader
    - n. Reservation of the Indian as a union leader
    - o. Reservation of the Indian as a party leader
    - p. Reservation of the Indian as a candidate



4. Roosevelt's opinion of importance of 3
- d. Treaty of Greenville, August 3, 1795
  1. Annuities in goods (\$9500 yearly), etc.
- e. Importance
  1. Proved entering wedge vs. Indian Confederacy but
  2. Did not adjust all difficulties
  3. Some gave trouble in future
3. Washington's Message of November 1794 laid emphasis on friendship to Indians. Washington recommended
  - a. alienation of Indian land
  - b. punishment of Indians if treaties violated
  - c. removal of ill disposed whites
  - d. appointment of agents
4. Treaties of Washington's Administration to September 27, 1789
  - a. 10 treaties
  - b. Indians all placed themselves under the protection of the United States
  - c. variety of emphasis shows no definite relations between the Indians and the government established
  - d. Government to regulate their trade. Court decision to substantiate right to do so
  - e. unique features
    1. Wyandot treaty provided for punishment for theft of horses
    2. Creeks wanted to keep settlers and hunters out of their territory
    3. Oneidas recompensed for losses incurred in fighting for United States
    4. Treaty with Seven Nations prevented international complication
    5. Repetitive treaties show dissatisfaction of Indians
    6. Cherokees agreed to navigation of Tennessee and road from Washington District  
Cause of future trouble. Settlers could not be kept out
5. Policy of Washington successful at the time
  - a. In spite of dissatisfaction vs. annuity and factory systems and desires of pioneers



1. Roosevelt's opinion as expressed in a  
a. Treaty of Friendship, Commerce and Consular Rights  
b. Amendment to Treaty of 1903 (1904)  
c. Executive Order  
d. Treaty of 1903 (1904)  
e. Executive Order  
f. Treaty of 1903 (1904)  
g. Executive Order  
h. Treaty of 1903 (1904)  
i. Executive Order  
j. Treaty of 1903 (1904)  
k. Executive Order  
l. Treaty of 1903 (1904)  
m. Executive Order  
n. Treaty of 1903 (1904)  
o. Executive Order  
p. Treaty of 1903 (1904)  
q. Executive Order  
r. Treaty of 1903 (1904)  
s. Executive Order  
t. Treaty of 1903 (1904)  
u. Executive Order  
v. Treaty of 1903 (1904)  
w. Executive Order  
x. Treaty of 1903 (1904)  
y. Executive Order  
z. Treaty of 1903 (1904)
2. Washington's change of opinion as expressed in a  
a. Treaty of Friendship, Commerce and Consular Rights  
b. Amendment to Treaty of 1903 (1904)  
c. Executive Order  
d. Treaty of 1903 (1904)  
e. Executive Order  
f. Treaty of 1903 (1904)  
g. Executive Order  
h. Treaty of 1903 (1904)  
i. Executive Order  
j. Treaty of 1903 (1904)  
k. Executive Order  
l. Treaty of 1903 (1904)  
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n. Treaty of 1903 (1904)  
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p. Treaty of 1903 (1904)  
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r. Treaty of 1903 (1904)  
s. Executive Order  
t. Treaty of 1903 (1904)  
u. Executive Order  
v. Treaty of 1903 (1904)  
w. Executive Order  
x. Treaty of 1903 (1904)  
y. Executive Order  
z. Treaty of 1903 (1904)
3. Policy of Washington as expressed in a  
a. Treaty of Friendship, Commerce and Consular Rights  
b. Amendment to Treaty of 1903 (1904)  
c. Executive Order  
d. Treaty of 1903 (1904)  
e. Executive Order  
f. Treaty of 1903 (1904)  
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t. Treaty of 1903 (1904)  
u. Executive Order  
v. Treaty of 1903 (1904)  
w. Executive Order  
x. Treaty of 1903 (1904)  
y. Executive Order  
z. Treaty of 1903 (1904)



III. Policy of Congress to regulate Indian trade as result of treaties with above

1. 1st Trade and Intercourse Act 1790)
2. 2nd Trade and Intercourse Act 1793) use term Indian
3. 3rd Trade and Intercourse Act 1799-Indian Co. country defined
4. 4th Trade and Intercourse Act 1802 provided for surveying of line in 3
5. Great expense of acts

IV. Fur Trade

1. Early trader and trapper and his relation to Indians
2. Furs acquired by exchange
3. Indian gradually drifted under protection of United States Government

V. Trading House Act of 1796 and Factory Act (Renewed periodically for 20 years to 1821)

1. President to establish trading posts for Indian trade
2. Purpose to get friendship of Indians vs. Indian traders
3. \$150,000 provided for putting act into effect
4. Non success because licenses were given to traders who competed with Government more successfully because of experience and methods
5. Did not pay for itself as planned
6. Abolished in 1821

VI. American Fur Traders in Far West

1. John Jacob Astor's Astoria--Failure
2. John Jacob Astor's American Fur Co. a success in Wisconsin and Michigan
  - a. Old French methods used
3. William Ashley's Rocky Mountain Fur Company
  - a. Route through Rockies found by traders Later--California and Oregon trails
  - b. Rocky Mountain Trappers of Appalachian frontiersmen
  - c. Sante Fe and Oregon trade



III. Policy of Congress to promote United States interests  
of commerce with China

1. For Trade and Information and 1901 and 1902 laws
2. For Trade and Information and 1903 and 1904 laws
3. For Trade and Information and 1905 and 1906 laws
4. For Trade and Information and 1907 and 1908 laws
5. Great measures of 1909

IV. For Trade

1. For Trade and Information and 1901 and 1902 laws
2. For Trade and Information and 1903 and 1904 laws
3. For Trade and Information and 1905 and 1906 laws
4. For Trade and Information and 1907 and 1908 laws
5. For Trade and Information and 1909 and 1910 laws

1. For Trade and Information and 1901 and 1902 laws
2. For Trade and Information and 1903 and 1904 laws
3. For Trade and Information and 1905 and 1906 laws
4. For Trade and Information and 1907 and 1908 laws
5. For Trade and Information and 1909 and 1910 laws

V. American and Chinese in the West

1. John Jacob Astor's mission to China
2. John Jacob Astor's mission to China
3. John Jacob Astor's mission to China
4. John Jacob Astor's mission to China
5. John Jacob Astor's mission to China



## VII. Policy of John Adams

1. Apparently not interested--Speech of John Quincy Adams in 1802 at anniversary of Sons of Pilgrims
2. Treaty with Cherokees (one of many)
  - a. Kentucky road to be open to travel by United States citizens  
Beginning of trouble--entering wedge
  - b. Payment for stolen horses
3. Governor St. Clair's message to Ohio Territorial Assembly stating cause of Indian dissatisfaction--white intrusion
4. Organization of Indiana Territory in 1800
  - a. Methods of Governor Harrison caused dissatisfaction  
Especially Treaty methods
5. Act providing for rationing Indians visiting Washington and army posts  
Bad effect

## VIII. Policy of Jefferson's Administration

1. Congress passed Act of March 30, 1802 to regulate intercourse with the Indians; and to preserve peace on the frontiers
  - a. Purpose to do away with causes of dissatisfaction
  - b. Sections detailed to prevent breaking of the law, etc. vs. trespass, theft, trading in Indian country without license, purchase of Indian lands by individuals, etc.
2. Jefferson's Personal Policy
  - a. First expressed April 1795. in letter to Charles Carrol advocating bribing them to keep the peace
  - b. First Inaugural address
    - (1) Conditions and numbers of Indians improving
  - c. Later Messages
    - (1) Indians living peacefully engaged in agriculture
  - d. Proposed constitutional amendment removing Indians to Louisiana territory--Advocated by Knox before this time
    - (1) Favorite plan of Jefferson to establish trade relations with the Indians of the western country through treaties
      - (a) Hoped thereby to prevent Indian wars



# VII. Policy of John Adams

1. - Separation of church and state - Adams in 1799
2. - Adams in 1799
3. - Adams in 1799
4. - Adams in 1799
5. - Adams in 1799
6. - Adams in 1799
7. - Adams in 1799
8. - Adams in 1799
9. - Adams in 1799
10. - Adams in 1799

# VIII. Policy of John Adams's Administration

1. - Adams in 1799
2. - Adams in 1799
3. - Adams in 1799
4. - Adams in 1799
5. - Adams in 1799
6. - Adams in 1799
7. - Adams in 1799
8. - Adams in 1799
9. - Adams in 1799
10. - Adams in 1799
11. - Adams in 1799
12. - Adams in 1799
13. - Adams in 1799
14. - Adams in 1799
15. - Adams in 1799
16. - Adams in 1799
17. - Adams in 1799
18. - Adams in 1799
19. - Adams in 1799
20. - Adams in 1799



- e. Congress in favor at first but people of Louisiana vs. Indians
- f. Jefferson concluded 21 treaties with the Indians
  - (1) Great variety of subjects
  - (2) Purpose to bring quiet on frontier
  - (3) To prevent English intrigue
- g. Unrest in spite of his efforts
  - (1) Jefferson threatened tribes with removal as a punishment
  - (2) Knox ordered Governor Harrison of Indiana to be more careful

#### IX. Policy of Madison

- 1. Treaty with Kichapoos proclaimed March 8, 1810
- 2. No proof English Government inciting Indians vs. United States
  - a. Commercial interests did
- 3. Madison not naturally interested in Indian question but matters forced him to be
  - a. Trouble centred at Wabash
  - b. Defeat by Governor Harrison at Tippecanoe and Thames
  - c. Trouble in the Alabama country, Creeks, etc.
  - d. Jackson's victory at Battle of Horseshoe Bend--Injustice to remaining Indians
- 4. Treaty of Ghent--Idea of a buffer Indian state
  - a. Not made an ultimatum
  - b. Would not have prevented removal
- 5. Madison's treaties with the Indians following war of 1812 had the purposes of
  - a. alienating them from British influence
  - b. placing them under the protection of the United States
  - c. Cherokees and Creeks harshly treated
  - d. Law passed to carry out treaties and reward friendly chiefs and warriors
    - (1) In most cases given sections or  $\frac{1}{4}$  sections as a recompense

#### X. Cessions made by treaty between 1812-1830

- 1. In Michigan, Ohio, Illinois, Indiana, Missouri, etc.





The general Indian policy of the United States was inefficient, vacillating, changeable, and far from a benefit to the Indians whom the government was desirous of helping. The United States made treaty after treaty with the Indians guaranteeing them perpetual ownership of their reservations, frequently being forced, however, to break these treaties as a result of demands made by pioneers, would-be settlers and politicians; thus causing hardships and dissatisfaction among the Indians, which sometimes resulted in wars. Even government officials<sup>1</sup> admit the government's inefficiency in this respect.

When Washington became President, the situation on the frontier was threatening. All the northwest Indians knew that the United States had not got possession of territory granted them by the Treaty of 1783. Arthur St. Clair, a friend of Washington and Lafayette, had been made Governor of the Northwest Territory. In January, 1789, he made the Treaty of Fort Harmar with the Mohawks, Wyandots, Delawares, Ottawas, Chippewas, Potawatamies,

1. "In the consideration of this problem much time and effort and many reams of white paper can be saved by pleading guilty to the indictment of history that the white race has shamefully mistreated the red race.....The cold facts of history furnish damning evidence against the Caucasians. They and they only made the Indians what they are today."  
McDowell 2(Government Compiler)







and Sacs,<sup>1</sup> followed by a similar treaty with the Six Nations, on the same date. These treaties were considered of great importance because they counteracted the formation of a great Indian confederacy vs. the United States, and became the basis for all Indian treaties made prior to the Treaty of Greenville, which then became the established form of procedure.

Washington considered the Indian question important enough to make it a significant topic for discussion in his First Inaugural Address, in which he said that negotiations were being carried on with the purpose of establishing pacific relations with the Indians but that it would be well to make ready to use force if it were deemed necessary.<sup>2</sup> On August 22, 1789, he went into the Senate and told them of the situation of affairs between the Indians and the states, asking the Senators of the United States to guarantee the Creeks their remaining territory, maintaining the same, if necessary, by military posts.<sup>3</sup>

His message of August 1, 1790 to the Senate reads as follows: "Gentlemen of the Senate, although the treaty

1. Kappler II 22-33

2. Lodge 81 Journal of Senate 1st Congress 1st Session

3. Journal of Senate 1st Congress August 22, 1789



and back. Following is a list of the  
stations on the line. The line was  
opened at first between the stations  
the formation of a new line between the  
United States, and between the United States  
stations with a view to the growth of the line.  
then became the line between the stations.  
Washington, D.C. and the United States  
enough to make it a line between the stations.  
the line between the stations, in which the line  
line was being formed to make the line of the line  
specific reference with the line and the line  
will be made from the line to the line and the line  
On August 15, 1900, the line was opened and the line  
of the line between the stations and the line  
stations, between the stations of the line and the  
stations the line between the stations and the line  
between the line and the line, in which the line  
the line of the line, in which the line  
as follows: The line between the stations, in which the line

1. August 15, 1900
2. August 15, 1900
3. August 15, 1900



with the Creeks may be regarded as the main foundation of the future peace and prosperity of the southwestern frontier of the United States, yet, in order fully to effect so desirable an object, the treaties which have to be entered into with the other tribes in that quarter, must be faithfully performed on our part.<sup>1</sup> It is an interesting fact that Alexander Hamilton, during the Confederation, had expressed himself for pacific measures,<sup>2</sup> and removal by treaty. Washington's policy of conciliation, peaceful or otherwise, became the policy likewise of his immediate successors.<sup>3</sup> In the words of Lodge, "In taking up the question for solution, he believed first, as was his nature, in justice, and he resolved to push every pacific measure and strive unremittedly by fair dealing and binding treaties to keep a peace which was of great moment to the young republic." But

1. Abel Removal of Indians 2
2. "Their friendship alone can keep our frontiers in peace. It is essential to the development of our fur trade-an object of universal importance. War with them is as expensive as it is destructive. It has not a single object; for the acquisition of their lands is not to be wished till those now vacant are filled; and the surest as well as the most just and humane way of removing them is by extending our settlements to their neighborhood(This was before removal had become so significant). Indeed it is not impossible that they may be already willing to exchange their former possessions for more remote ones." Alexander Hamilton Works I 408
3. Lodge 85







Washington also felt that pacific measures were an uncertain reliance and that short decisive methods were often the only means of maintaining peace and quiet on the frontier, and of warding off English and Spanish intrigue. Brigadier General Rufus Putnam, of Revolutionary fame, had been sent to the Wabash with a special commission. These Commissioners had copies of all treaties hitherto made by the government with the various Indian tribes and nations.<sup>1</sup> They were directed to convince the Indians that the government wanted peace and that it would do away with all unjust land claims, in order to obtain it, cooperating with the Indians in all matters relative to their welfare. The Committee was further ordered to urge the treaty of Fort Harmar as a basis of negotiations, demanding, however, in all new treaties a clause guaranteeing the safety of all outposts. Unfortunately, the resulting treaty of September 27, 1791, was not ratified by the Senate because of the clause by which the tribes were to retain all lands to which they had a just claim.<sup>2</sup> In 1792, hostile demonstrations broke out but the Government wishing peace, sent commissioners again with instructions: 1. to follow the treaty provisions of the Treaty of Fort Harmar, 2. to demand that the Indians

1. Wilson 76  
Manypenny 55
2. Wilson 78







give up their posts beyond certain state boundaries.

3. to agree to pay these tribes \$50,000 annually if an agreement were reached. The tribes in reply delivered an ultimatum to the effect, that all earlier treaties were illegal because the tribes had not been properly represented<sup>1</sup> at former conferences, and so the treaties were not binding on the whole confederacy. In addition, they<sup>2</sup> declared money meant nothing to them, but goods did; that Great Britain had had no legal right to cede away their lands without their consent; and that they had moved as far as they could, therefore the Ohio must<sup>3</sup> be the final boundary of their lands.

Washington wrote to Governor Pinckney of South Carolina about this time as follows, "I am entirely persuaded that the present government will endeavor to lay the foundation of its proceedings in internal justice, faith, and honor. But should the Government, after having attempted in vain every reasonable pacific measure be obliged to have recourse to arms for the defence of its citizens, I am also of the opinion that sound policy and good economy will point to a prompt and decisive

1. We find this condition repeated again and again
2. The Government in all subsequent treaties promises supplies
3. Wilson 82







effort rather than to defensive and lingering operations.<sup>1</sup> "Lingering they certainly had been, and Washington was evidently determined to have no more of that sort of method.<sup>1</sup>

The first treaty made towards carrying out this policy was the Treaty of Fort Stanwix, concluded with the Six Nations.<sup>2</sup> Upon overtures from Washington, these Nations sent thirty representatives to Philadelphia in 1792. To initiate the conciliation policy, the President and Commissioner Pickering spoke of the just and humane purposes of the United States government, urging the Indians to use their influence among the western tribes to bring about peace without fighting.<sup>3</sup> Treaties were afterward made with the western Indians doing away with the injustice of 1785 and 1786, but the Wabash tribes north of the Ohio, were not included. These frontier Indians were in a state of unrest, made worse by the fact that the Kentucky settlers, already stirred up by Spanish and English intrigue felt that every Indian was their natural enemy, and even killed some of those with whom the United States already had treaty relations. North

1. Lodge 8

2. Onondagas, Cayugas, Mohawks, Senecas, Oneidas, Tuscaroras

3. Wilson 76







of the Ohio, the Choctaws gave little trouble, probably because they were far from frontier settlements, but the Cherokees had taken refuge with the Creeks, being well armed because of their Spanish affiliations, as Washington knew. When the commissioners were sent to treat with these Creeks, the latter would have nothing to do with them. To expedite the matter, Washington sent Colonel Willett to urge the Creek Chiefs to come to New York. In these negotiations, both sides made concessions. The significant point in the negotiations on the part of the United States was the emphasis laid on annuities. There had been cases of gifts before to the Indians but a precedent was now established which became subsequently a great expense to the nation. The ration system was introduced because it seemed necessary to care for the Indians. It, too, proved to be a bad policy in the long run because it practically made the assisted Indians paupers since they became an absolutely dependent people.<sup>1</sup> Knox, the first Secretary of War, under whom the Indian Bureau had been placed by act of Congress, had recommended anticipatory purchase of land and removal of the Indians from the land before the whites should want it. Congress in 1793 appropriated \$20,000 for Indian negotiations, the money to be expended under the supervision of the President for annuities,

1. McDowell 3







supplies, and other expenses.<sup>1</sup>

As has been suggested, the pacific policy failed in the West because the Indians insisted on the Ohio as their final boundary. This policy had, however, given many Indians an idea of the government's intention to deal fairly with them and was, therefore, of great value. Then again, the people of the nation as a whole, saw that the central government intended to prevent any state from frustrating a policy which it felt was beneficial to the nation as a whole.<sup>2</sup> Fighting having broken out in the West between the Indians and the Kentucky militia, Washington decided on action, sending Kentucky and Pennsylvania militia into the Miami country under Colonel Harmar.<sup>3</sup> He felt that in carrying out his policy, the great obstacles to success were the intermeddling of the states and the disorderly conduct of the border settlers who were indifferent to the killing

1. Otis 84 "To promote civilization among the friendly Indian tribes and to secure the continuance of their friendship it shall be lawful for the President to cause them to be furnished with useful domestic animals, and implements of husbandry and also to furnish them with goods and money in such proportions as he shall judge proper and appoint such persons from time to time as temporary agents to reside among the Indians as he shall think proper."

2. Lodge 89

3. Lodge 90-92 Paxson 76





of an Indian. The first states to ask for aid were those who themselves had violated their own treaties with the Indians.<sup>1</sup> The policy of the government then changed from a pacific one to a plan to organize against the villages of the Miamis, Shawnees, and Weas if they were not willing to make peace, and to send a large force to build forts and hold the enemy's lands.<sup>2</sup> Washington appointed St. Clair as Major General to command the forces. Knowing the Indians by experience, Washington realized that they were dangerous and treacherous fighters; also that there were great difficulties in travel by an army moving into the wilderness, cut off from its base of supplies. In spite of Washington's directions and advice, St. Clair allowed himself to be surprised by the Indians.<sup>3</sup> Fortunately, the Indians did not follow up their advantage so the results were not so bad as had been feared. A committee of Congress subsequently exculpated St. Clair. Washington then appointed Anthony Wayne of Pennsylvania, in spite of the opposition from Virginia.<sup>4</sup> His appointment was confirmed by Congress

1. Lodge 96
2. Wilson 52
3. Lodge 97 Manypenny 61
4. Lodge 297





which agreed to reorganize the army, increasing its strength.<sup>1</sup> Wayne took months to drill this force very carefully, contrary to what the nation as a whole would have expected after his Revolutionary fame for reckless bravery, but he too knew the Indian, and did not intend to take chances. Wayne finally established himself at Fort Washington in April 1793. He was called "Black Snake" by the Indians because he began to build roads in all directions and therefore they could not calculate in what direction he would move.<sup>2</sup> It is reported that Little Turtle, Chief of the Miami, said to his tribesmen, "We cannot expect the same good fortune always to attend us. The Americans are now led by a chief who never sleeps." On August 20, 1794 Wayne defeated the Indian allies decisively at the Battle of Fallen Timbers.<sup>3</sup> Roosevelt said of this victory,<sup>4</sup> "It was the most complete victory ever gained over the northwest Indians in forty years warfare to which it put an end." Overtures came from the Chippewas, Ottawas, Sacs, Potawatamies, Miamis, Shawnees, Delawares, and Wyandots,

1. Wilson 8 The organization was one squadron of cavalry, one battalion of artillery, five regiments of infantry (three battalions each) and mounted militia escorts.
2. Wilson 92
3. Paxson 78
4. Wilson 98







on January 24, 1795, all the tribes agreeing to send their sachems to meet at Greenville on June 15. Little Turtle, whose influence was now cast for peace, made an appeal for his nation, declaring that the proposed boundary would cut off a large part of the country formerly occupied by their forefathers.<sup>1</sup> The treaty signed on August 3, 1795 by Wayne, Washington and ninety chiefs,<sup>2</sup> has in the preamble a statement that its purpose was "to put an end to destructive war; and to settle all controversies; and to restore harmony and friendly intercourse between the United States and the Indians."<sup>3</sup> The novel points in the agreement were the furnishing of supplies to the amount of \$20,000 for that year and \$9,500 yearly thereafter. Definite promises were also made relative to rights of Indians and whites within the reservations, punishments for violations of the

1. ~~Wilson~~ 105, 117

2. Ibid 117 Lodge 10 Manypenny 61 Abel 6

3. Kappler II





1

agreements being definitely stated.

The Treaty of Greenville proved the entering wedge in breaking up the confederacy of Indians in the West, resulting in subsequent treaties with other Indian tribes. It did not, however, make complete adjustment of Indian difficulties, and certain provisions might be the means of definitely bringing about in the future that which they had originally been framed to avoid. For instance, within the country conceded as of right to belong to the Indians, it provided for a number of reservations to which the Indian title of occupancy was declared extinguished and to which the United States were to have an unmolested right of way. The provisions of this treaty became substantially obliterated with all its provisions

- 2
1. Article IV "....The United States now deliver to the said Indian tribes (Wyandots, Delawares, Shawnees, Ottawas, Chippewas, Potawatamies, Miamis, Eel-river; Weas, Kichapoos, Piankashaws, and Kaskaskias) a quantity of goods to the value of twenty thousand dollars---; and henceforward every year for ever the United States will deliver at some convenient place northward of the river Ohio, like useful goods suited to the circumstances of the Indians, to the value of nine thousand five hundred dollars; reckoning that value at the first cost of the goods in the city or place in the United States where they shall be procured.

Kappler II 41

Amounts--Wyandots	\$1000	Delawares	\$1000	Shawnees	\$1000
Miamis	\$1000	Ottawas	\$1000	Chippewas	\$1000
Potawatamies	\$1000				
Kickapoos, Eel-river, Piankashaws, and					
Kaskaskias	\$500 each				

Kappler II 42

2. Kappler II 40-41







for the Indian; most of the lands secured to the Indians by it, being transferred gradually to the whites and the original proprietors dispersed. Cession after cession were obtained from the Indians by an almost continual process of treaty-making.<sup>1</sup> It should be noted that practically every treaty made with the Indians has been opposed by at least a minority of the tribe, in some cases by a majority of it. These opponents being dissatisfied are inclined to be hostile not only to the whites, but to the chiefs by whom the treaty was made.<sup>2</sup> Collisions could not help but result.<sup>3</sup>

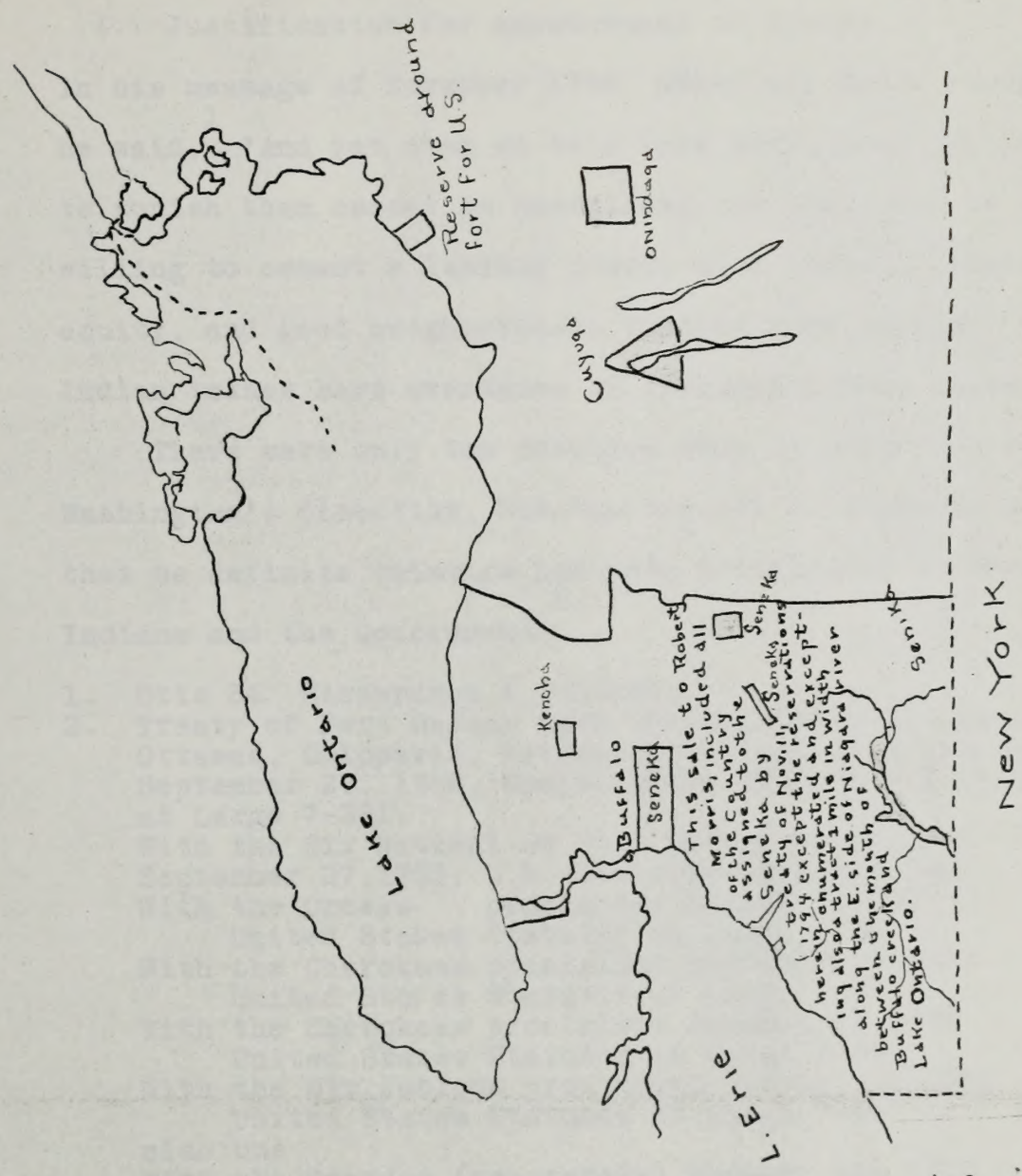
Washington's recommendations at this time relative to the Indians might be summed up under four headings:

1. Manypenny 6
2. Dodge
3. In 1872 the Indian Commissioner in his report to the Secretary of the Interior gives the following exposition of the reservation system,--"In the first announcement made of the reservation system it was clearly declared that the Indians should be made as comfortable on, and as uncomfortable off their reservation as it was in the power of the government to make them. That such of them as went right should be protected and fed, and such as went wrong should be harassed and scourged without intermission. It was not anticipated that the first proclamation of this policy to the tribes concerned would effect the entire cessation of the existing evils; but it was believed that persistence in the course marked out would steadily reduce the number of the refractory both by the losses sustained in actual conflict and by the desertion of the individuals as they should become weary of the profitless and hopeless struggle until in the near result, the system adopted should apply without exception to all the then roving and hostile tribes. Such a use of the strong arm of the Government is not war, but discipline." Humphrey 18









Compiled and  
adapted from  
Royce Land  
Cessions





1. Alienation of Indian land
2. Punishment of Indians in case of treaty violation
3. Removal of ill disposed whites
4. Justification for appointment of agents

In his message of November 1794, after the Wayne victory he said,<sup>1</sup> "And yet even at this late hour, when our power to punish them cannot be questioned, we shall not be unwilling to cement a lasting peace, upon terms of candor, equity, and good neighborhood. Towards none of the Indian tribes have overtures of friendship been spared.

There were only ten treaties made or completed under Washington's direction, but the variety of emphasis shows that no definite relation had been established between the Indians and the Government.<sup>2</sup>

1. Otis 84 Richardson I 162-168
2. Treaty of Fort Harmar with the Wyandots, Delawares Ottawas, Chippewas, Potawatamies, and Sacs proclaimed September 27, 1789. Compilations 923-924 U.S. Statutes at Large 7-281.
  - With the Six Nations at Fort Harmar proclaimed September 27, 1789, U.S. Statutes at Large 7-33
  - With the Creeks proclaimed August 7, 1790 United States Statutes at Large 7-35
  - With the Cherokees proclaimed September 7, 1792 United States Statutes at Large 7-37
  - With the Cherokees proclaimed January 21, 1795 United States Statutes at Large 7-39
  - With the Six Nations proclaimed January 21, 1795 United States Statutes at Large 7-44
  - also one
  - With the Oneidas (separately) January 21, 1795 United States Statutes at Large 7-47
  - Kappler II 38
  - With the Wyandots, Delawares at Greenville proclaimed December 2, 1795 United States Statutes at Large 7-49 Kappler II 43
  - With the Seven Nations of Canada at New York City proclaimed January 31, 1797 United States Statutes at Large 7-563
  - With the Creeks proclaimed March 18, 1797. United States Statutes at Large 7-563







To be sure, all the treaties had a similar clause whereby the Indians placed themselves under the protection of the government,<sup>1</sup> which also had the right to regulate their trade.<sup>2</sup> Court decision has upheld the right of Congress to prohibit all intercourse with the tribes or to permit

1. Kappler II 2 51- 563

2. Ex--Treaty with Cherokees. Kappler II 29

Article II "The undersigned Chiefs and Warriors, for themselves and all parts of the Cherokee nation, do acknowledge themselves, and the said Cherokee Nation, to be under the protection of the said United States of America and of no foreign power whosoever, and they also stipulate that the said Cherokee nation will not hold any treaty with any foreign power, individual state or with individuals of any state."

Ex--Treaty with Wyandots, etc., September 27, 1789.

Kappler II 20

Article VII "Trade shall be opened with the said nations, and they do hereby respectively engage to afford protection to the persons and property of such as may be duly licensed to reside among them for purposes of trade, but no person shall be permitted to reside at their towns or at their hunting camps, as a trader, who is not furnished with a license for that purpose....; to the end that they may not be imposed upon in their traffic."





it under license.<sup>1</sup> In almost all other respects there was little resemblance in the treaties. For example, the treaty with the Wyandots proclaimed September 27, 1789 provided for punishment for the theft of horses from the Indians while that with the Creeks of 1790,<sup>2</sup> laid the emphasis on keeping settlers and hunters out

1. United States vs. Bailey 1 McLean 234  
United States vs. Cissna 1 McLean 234  
Weil 39

2. Article VI Kappler II 20 United States Statutes at Large 7-28  
"And whereas the practice of stealing horses has prevailed very much, to the great disgust of the citizens of the United States, and if persisted in, cannot fail to involve both the United States of America and the Indians in endless animosity.....should some individuals in defiance of this agreement, and of the laws provided against such offenses, continue to make depredations of that nature, the person convicted thereof shall be punished with the utmost severity by the laws of the respective states, or territory of the United States northwest of the Ohio, where the offence may have been committed will permit of....."





1  
of their territories.

The treaty with the Oneidas of 1795 was unique in that they were being recompensed for their losses as a result of supporting the United States in the Revolution.

2  
The treaty with the Seven Nations of 1797, is significant in that it probably prevented a future international complication. It is noteworthy likewise, that

1. Article VI "If any citizen of the United States or other person not being an Indian, shall attempt to settle on any of the Creek lands, such persons shall forfeit the protection of the United States and the Creeks may punish him or not, as they please."

Kappler II 27

Article VII "No citizen or inhabitant of the United States shall attempt to hunt or destroy the game on the Creek lands: nor shall any citizen or inhabitant go into the Creek country without a passport.....

Kappler II-27

2. Article I provided for the payment of \$5,000 to cover such losses, provision being made for a single Kaughnanaugas, the only one of his tribe still living on the Oneida lands, and a few Stockbridge Indians.

Kappler II 38

In Article II the United States promised to erect a grist mill and a saw mill providing millers. Kappler II 38

In Article IV the United States promised to give \$1,000 towards a church to replace one destroyed during the war. Kappler II 38

Article III for three years after their erection. Kappler II 38







in several instances,<sup>1</sup> there were more than one treaty with the same tribe which shows probably their dissatisfaction rather than their grasping natures.<sup>2</sup> One clause in the Treaty of 1792 with the Cherokees, stands out because it suggests future trouble and the futility of treaties from the standpoint of the Indians, for in Article V the Indians agreed that the citizens and inhabitants of the United States should have free use of the road from Washington district to Mero district, including the navigation of the Tennessee River. How could they keep would be settlers out of their territory!

In the words of Lodge, "On the whole, when Washington left the Presidency, his Indian policy had been a marked

1. (With Creeks proclaimed August 7, 1790) more numerous  
 (With Creeks proclaimed March 18, 1797) as time goes on  
  
 (With Cherokees proclaimed February 7, 1792)  
 (With Cherokees proclaimed January 21, 1795)  
  
 (With the Six Nations proclaimed September 27, 1789)  
 (With the Six Nations proclaimed January 21, 1795)
2. Ex. With Cherokees of January 21, 1795 Preamble reads,  
 "Whereas the treaty made concluded on Holston River,  
 on the Second day of July, one thousand seven hundred  
 and ninety-one, between the United States of America,  
 and the Cherokee nation of Indians, has not been fully  
 carried into execution by reason of some misunder-  
 standings that have arisen." Kappler II 33







success. In place of uncertainty and weakness a definite general system had been adopted. The northern and western tribes had been beaten and pacified and the southern incursions and disorders had been checked. These results were due to a well defined plan and above all to the persistent vigor which pushed steadily forward to its objective, without swinging as had been done before, between feverish and often misdirected activity and complete and feeble inaction. This was achieved too, amid many difficulties, for there was anything but a unanimous support of the government in its Indian affairs.<sup>1</sup> This dissatisfaction showed itself primarily relative to the expenses incurred as a result of the annuity and factory systems and because of the limitation of settlement on reservation land.

To carry out the trade agreements of the treaties and to regulate the Indian trader in general, Congress passed several acts during Washington's administration. The first Trade and Intercourse Act of March<sup>2</sup> 1, 1790, used the term "Indian country" for the first time, as<sup>3</sup> was also the case in the act of March 1, 1793. In that

1. Lodge 101-102
2. Statutes at Large I 137
3. Ibid 460







of March 3, 1799 the "Indian country" is defined as an irregular line from the present site of Cleveland, Ohio, to the St. Mary River, Florida, as fixed by Indian<sup>1</sup> treaties. The act of March 31, 1802 provided for a definite survey of this line under the supervision of the President.<sup>2</sup> These and subsequent Intercourse acts proved very expensive, probably because many were bound up with removal, as in the case of the Act of 1834.<sup>3</sup> In 1860, the cost of the Indian wars resulting was calculated in lives and money at \$500,000,000 and the civil expenses at \$250,000,000.<sup>4</sup>

In the early period practically all Indian trade was connected directly or indirectly with the fur trade. There seldom seemed to be any friction between the Indians and the traders or trappers of early days. In the words of Chittenden, the authority on the subject, "It was only in these early years that the white men and the Indians truly understood one another. Very rarely has any Indian agent or army officer, however wide their experience, displayed that intimate acquaintance with the tribes and the knowledge of the native character that was possessed by the trader and trapper. Fortunate would it have been if this practical experience had been turned to proper

1. Varied by later treaties. Weil 42

2. Statutes at Large I 743

3. Ibid IV 736

4. Ellis Red Men and White Men- Cost of Cheyenne War \$30,000,000.  
 Executive Documents 15 to 20 Indians killed)  
 97 40th Congress 2nd Sess. Sioux War 1852-54 ) Cost more than  
 Senate Documents Cheyenne 1864 ) \$100,000,000  
 46 46th Congress 3rd Sess. 2nd Sioux War 1866 )  
 2nd Cheyenne War 1867 )







account, and if these trained men had been employed by the government in transacting its business with the Indians.<sup>1</sup>"

It is hard to say whether the Indian controlled the trade or the trapper did so for most of the furs came into the hands of the traders only by exchange, and it was by this method that the whites had first become acquainted with most of the tribes.<sup>2</sup> Gradually, the Indian became more and more dependent on the whites, giving up little by little his former methods of life and taking on new ones, drifting gradually under United States protection and control. The Trading House Act of 1796 provided for a liberal trade with the Indians, factories or trading posts being located, as a result, at various points in the Indian country.<sup>3</sup> This was followed by the Factory Act which was renewed in 1802 and periodically thereafter for twenty years.<sup>4</sup> The President had power to establish trading houses at such posts and places on the western or southern frontier or Indian country as he should judge most convenient for carrying on trade with the Indians. This trade was to be for skins and furs only. The trader was to receive a fixed salary and to receive no emoluments

1. Chittenden X
2. Ibid I 10
3. Ibid I 13
4. Otis 85







or gain. The object of the act was to acquire the friendship of the Indians through supplying their needs and thus to counteract the influence of British traders. \$150,000 was appropriated to carry this Trading House Act into effect.<sup>1</sup> The framers of the act had intended that the factory system should be self supporting, through exchange with the Indians. They were to get their goods at cost and because of this fact, it was thought that the Indians would purchase from the government and not from a private trader.<sup>2</sup> The system did not work out as its sponsors had planned for it was neither a money making scheme or a source of satisfaction to the Indians. This was probably due to the fact that the government did not limit the trade to itself but granted licenses to private individuals,

1. Royce 543 Otis 88

The act was passed because "of a growing conviction on the part of the government that a solution of the Indian question could not be postponed indefinitely, and that however it might be deferred by removing the Indians farther and farther west, it would ever rise anew and clamor for settlements..... If the government should conduct the Indian trade it could thus secure to the Indian his due, protect him from imposters, save time from the deadly effects of alcohol, and wean him from his tribal life." Chittenden I 12

2. Chittenden I 13





thus degrading itself to the level of a competing trader among a horde of irresponsible and frequently landless rivals. The fate of the factory system was thus sealed<sup>1</sup> from the beginning. These private traders used methods which no government could permit in its own traders. The government followed the established custom of allowing the Indians to hunt without the presence of the white traders, and then to bring the furs to the factory for sale. It was also a rule not to advance goods to the Indians, in the hope of teaching them thrift. The shrewd private trader, on the other hand, took advantage of this to advance outfits to the Indians, going on a hunt, travelling with these Indians, and securing payment in furs as fast as they were captured. In addition, these traders knew the language and customs of the Indians through experience, but the government traders were usually salaried officials who were strangers to the Indians, and untrained in the business, often receiving their positions through political influence.

While the government traders would not sell liquor to the Indians, the private traders smuggled it into<sup>2</sup> the territory for sale to the Indians, contrary to law.

The government factories did not always have the best

1. Chittenden I 13

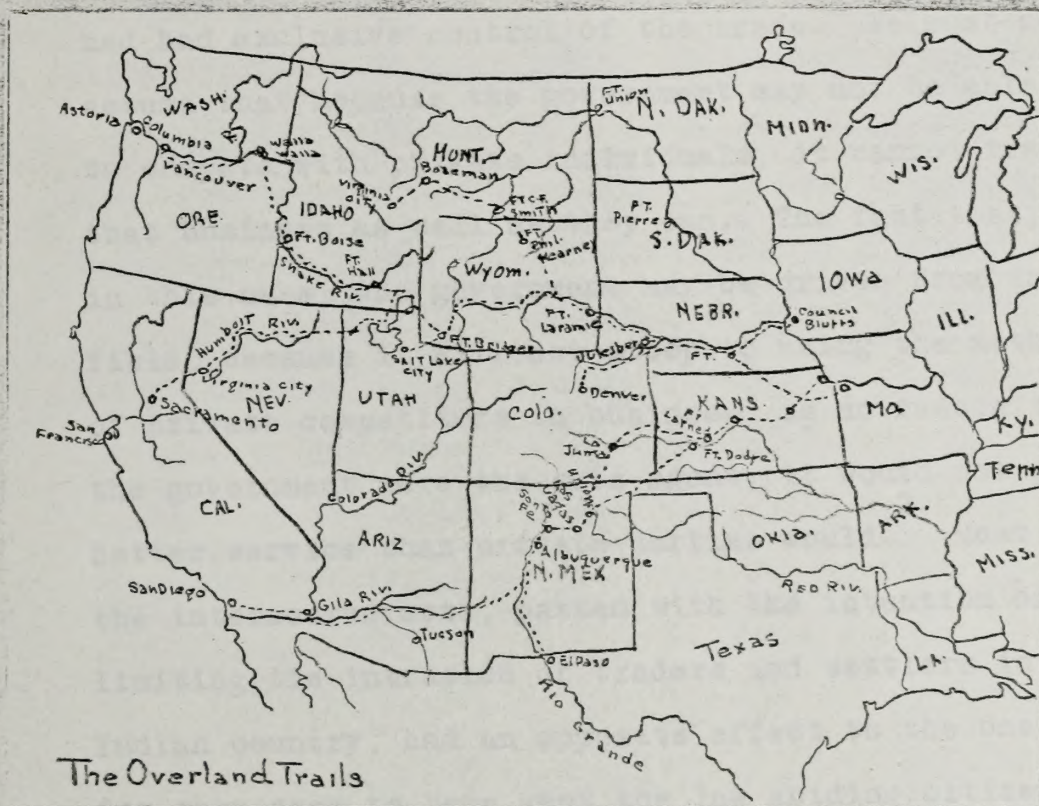
2. Weil 25 United States Revised Statutes 2140  
Statutes 2141

Davis Testimony Before House









PARSON  
Indian Frontier





articles of trade because the government was forced<sup>1</sup> to patronize home industries, thus not always being able to buy the best goods at the lowest market price. The Indian quickly saw the difference between these goods and those of the private trader. Then, too, this trader very often made him a small present which pleased the Indian. It would seem as if all of these conditions would have been overcome if the government had had exclusive control of the trade. We must not assume that because the government may not be able to compete with private individuals, it cannot transact that business as well as they can. The fact that, as in this case, the government may be driven from the field, because it will not stoop to using the methods of private competitors in business, is no reason that if the government were the sole agent, it would not give<sup>2</sup> better service than private parties would. Most of the intercourse acts, passed with the intention of limiting the intrusion of traders and settlers into the Indian country, had an opposite effect to the one desired, for they seem to have kept the law abiding citizens out, while the others entirely disregarded them when they found

1. Chittenden I 13
2. Chittenden I 14







it possible. It happened, therefore, that the factory system became unpopular with the very people for whose benefit it had been created. The traders naturally did their best to belittle it, and public opinion was against it although it was self supporting through part of its existence. As a result, the system was<sup>1</sup> abolished by law in March 1822.

A brief summary should perhaps be made here of the trade carried on by the American traders outside of the limits where it was carried on by the government because of the fact that it played a great part in the opening up of new country and developing the public demand for Indian cessions by treaty and removal in the 1830's.

1. Chittenden writes this epitaph for it,--"Thus ended in failure a system fraught with possibilities of great good to the Indian--a system which if followed out as it should have been, would have led the Indian to his destiny by easy stages and would have averted the long and bloody wars; the corruption and bad faith which have for a hundred years of our dealing with the Indians, the unenviable destruction of a 'Century of Dishonor'."
- Chittenden I 14-16







John Jacob Astor's attempt to establish a trading post at Astoria, in the remote northwest, was frustrated during the War of 1812 when his men treacherously passed over the post to the British Northwest traders, from which<sup>1</sup> centre they made themselves masters of all this fur trade. Astor's American Fur Company was more successful in Wisconsin, and a large part of Michigan, where it came to control the trade still carried on in the old French method. The Company shipped guns and ammunition, blankets, whiskey, and the recognized commodities of this trade to some of the principal fur trading posts from which they were sent in light birch canoes manned by French, or<sup>2</sup> half-breed boatmen to the minor trading posts. Practically all of the Indian villages of the tributaries of the Great Lakes, and upper Mississippi were regularly visited by the traders.<sup>3</sup> These trading posts became the sites of later settlements, the traders' trails became roads, and some of their portages marked the location of future canals.

From St. Louis as a center, American fur traders worked into the wildernesses between the Mississippi and the Pacific; Lewis and Clark at the Mandan villages finding they had already been along the lines of their expedition.

1. Turner 117
2. Ibid 112
3. Ibid 113







William H. Ashley of Virginia founded the Rocky Mountain Fur Company, some of whose traders working their way up the north fork of the Platte, located the gateway into the Rockies, through which the Oregon and California<sup>1</sup> trails to the Pacific subsequently passed. Trading posts were also built on the lower Missouri, and the interior beyond.<sup>2</sup> In some of the best trading grounds, the Indians would not permit the building of posts and bands of mounted American trappers, mostly from Kentucky, Tennessee, and Missouri, were sent out to trade in the beaver valleys of the mountains. These Rocky Mountain

1. "Thus the active men of the Rocky Mountain Fur Trading Company in the decade between 1820 and 1830, revealed the sources of the Platte, the Green, the Yellowstone, and the Snake rivers and the characteristics of the Great Salt Lake region; they pioneered the way to South Pass, descended the Green River by boat, carried cannon into the interior basin; showed the practicability of a wagon route through the Rockies, reached California from Salt Lake, crossed the Sierras, and the deserts of Utah, Nevada, and became ultimately acquainted with the British traders of the northwest coast." Chittenden I 306

2. Chittenden II 44-51







trappers were to our early history what the Appalachian frontiersmen were to colonial history. In June and July of each year, the trappers returned to their rendezvous for their next year's supplies. The Indians likewise came there to trade. There were also a few daring independent trappers like Jedidiah Smith who did much to add to our knowledge of the vast country to the Pacific.<sup>1</sup> All of these men paved the way for the successful Oregon and Santa Fe trade which became so significant in the "Middle Period" of our history.<sup>2</sup>

Considerable discussion has been made of trade regulations, intercourse acts and the fur trade all more or less directly connected with Indian treaty relations because of the influence they had on the later Indian relations, ending in removal.

From the argument of silence it would seem as if the Indian question did not interest John Adams, while he was President. Perhaps it would be fairer to say that his attention was drawn to matters of greater moment to him at the time. In 1802, his son, John Quincy, soon after he had been elected to the Senate, delivered an oration at the anniversary of the Sons of the Pilgrims on December 22, 1802 which perhaps reflects the family attitude towards the question. "There are moralists who

1. Bancroft, H.H. California III 152-160
2. Turner 124-125 In 1822 Becknell of Wisconsin took a wagon train to Santa Fe to trade for horses and mules and to trap on the way, which is the real beginning of that trade which was carried on annually after that time.







have questioned the right of Europeans to intrude upon the possessions of the aborigines in any case and under any limitations whatsoever. But have they maturely considered the whole subject? The Indian right of possession itself stands, with regard to the greatest part of the country, upon a questionable foundation. Their cultivated fields, their constructed habitations, a space of ample sufficiency for their subsistence, and whatever they had annexed to themselves by personal labor, was undoubtedly, by the laws of nature, theirs. But what is the right of a huntsman to the forest of a thousand miles over which he has accidentally ranged in quest of prey? Shall the liberal bounties of Providence to the race of man be monopolized by one of ten thousand for whom they were created? Shall the exuberant vision of the common mother, amply adequate to the nourishment of millions, be claimed exclusively by a few hundreds of her offspring? Shall the lordly savage not only disdain the virtues and enjoyments of civilization itself, but shall he control the civilization of the world? Shall he forbid the wilderness to blossom like the rose? Shall he forbid the oaks of the forest to fall before the axe of industry; and use again transformed into the habitations of ease and elegance? Shall







he damn an immense region of the globe to perpetual desolation, and to hear the howlings of the tiger and the wolf silence forever the voice of human gladness? Shall the fields and valleys which a beneficent God has framed to teem with the life of innumerable multitudes be condemned to everlasting barrenness..... Have hundreds of commodious harbors, or thousand leagues of coast and a boundless ocean been spread in the front of this land, and shall every purpose of utility to which they could apply be prohibited by the tenant of the woods? No generous philanthropists! Heaven has not been thus inconsistent in the works of its hands. Heaven has not thus placed at irreconcilable strife its moral laws with its physical creation."<sup>1</sup>

There were two treaties made during Adams's adminis-<sup>2</sup>tration:-

1. With the Mohawks, proclaimed March 20, 1797, and
2. With the Cherokees, proclaimed October 27, 1798

By the first, the Mohawk nation surrendered to the State of New York, with the sanction of the United States, all the land claims that they had held in that state. In return, the state was to give the Mohawk deputies \$1,000

1. Report of Commissioner of Indian Affairs for 1867  
page 143
2. Kappler II 50-51  
Compilation 521-522







to be distributed among the nation at large, and in addition \$500 for the deputies to cover their expenses during the attendance at the making of the treaty, and \$100 for the expenses of their return to their people. The

<sup>1</sup>  
Cherokees with whom treaties were frequently made at this period with only brief intervals between guaranteed in  
<sup>2</sup>  
Article VI to keep the Kentucky road (between Cumberland Mountain and Cumberland River) open and free for use of United States citizens. In this way, the Indians made their country the natural highway to the rich lands beyond.

<sup>3</sup>  
Article VIII provided for a definite method for paying the annuities promised in the treaty of Washington's administration, and Article IX shows that the theft of horses was still a cause of controversy between the Indians and the  
<sup>4</sup>  
whites.

It is evident that the Indians were restless and dissatisfied because of the action of the whites. Governor St. Clair in 1800, sent a message to the territorial

1 Kappler II 51-54

2 Ibid II 53

3 Ibid II 53

4 Ibid II 54

Article IV. "It is mutually agreed between the parties, that horses stolen and not returned within ninety days, shall be paid for at the rate of sixty dollars each; if stolen by a white man, citizen of the United States, the Indian proprietor shall be paid in cash; and if stolen by an Indian from a citizen to be deducted, as expressed in the fourth article of the Treaty of Philadelphia." (\$50 to be deducted from annuity of \$5000 for each loss, if horse was not returned within three months) Kappler II 34







assembly of Ohio stating that "irrespective of the principles of religion and justice, it was the interest and should be the policy of the United States to be at peace with them; but that could not continue to be the case if the treaties existing between them and the government were broken with impunity by the inhabitants of the territory."<sup>1</sup> He referred also to the fact that the whites complained of every little injury done by the Indians, while they themselves were continually harming the Indians, and never receiving any punishment for the same; that the government had failed therefore to protect the Indians according to its promise in the Treaty of Greenville.<sup>2</sup> In 1800, the Indiana territory was organized west of a line drawn from the mouth of the Kentucky River through Fort Recovery to the Canadian Border.<sup>3</sup> The Indians of the district became restless and Governor Harrison's methods did not make them any the less so, for in order to win popularity within the territory, he began to negotiate a series of Indian cessions, making no pretense of extinguishing the title of all the claimants, but negotiating treaties with factions, with

1 Jacob Burnes--Note on early settlement of Northwest Territory 211-12

2 Barrows 35  
Abel Indian Consolidation 266

3 United States Statutes at Large 58-59  
Abel Indian Consolidation 266







isolated groups, or in fact, with any Indians over whom he could exert a temporary influence, absolutely contrary to Indian usage which required to be valid, an agreement made in a general council.<sup>1</sup> The Indian idea of a land cession differed radically from that of the whites with whom they made treaties, for the Indians never could understand why the occupation by the white settlers should prevent their continued use of the land for a temporary home or hunting ground. The whites with whom the Indians came into contact were strong fibered, coarse grained, independent, unscrupulous, and heedless of restraint by nature or became so by necessity; and never did these qualities show themselves more prominently than they did in treaty dealings with the Indians, especially in Jackson's day.

On May 13, 1800 the President approved an act to make provision for Indians visiting the seat of government or army posts as they had been given the right to do by treaty.<sup>2</sup> The purpose of the act was good but in the case of visits to army posts the effects might be harmful, causing disturbances in and around the reserva-

<sup>1</sup> *Abel* Ibid 267

<sup>2</sup> Laws of United States Relating to Indians 332







1  
tions, if nothing worse.

Indian Acts frequently coincided with the requests of Presidents as voiced in their messages. Adams, however,

- 1 Section I. "Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled. That the President of the United States shall be and hereby is authorized and empowered to cause such rations, as he shall judge proper, and as can be spared from the army provisions, without injury to the service to be issued under such regulations as he shall see fit to establish to Indians who may visit the military posts of the United States on the frontiers, or within their respective nations."

Section II. "And be it further enacted that the President of the United States shall be and hereby is further authorized and empowered to cause to be defrayed, on the part of the United States, the reasonable expenses of such Indians as may from time to time visit the seat of government thereof, for their journeys to, stay at, and return from the same and also to cause to be given to such Indians, during their stay aforesaid, such presents as he shall judge necessary." cf. private traders methods.

Section III. "And be it further enacted, that a separate account of all rations issued, and expenses defrayed as aforesaid, and for the expenditures measured by such presents, as are aforesaid, shall be kept by the Department of War." Laws of United States  
Relative to Indian Affairs 338





had generally speaking ignored the Indian situation and Jefferson had not as yet stated his policy so that this law was almost entirely the work of Congress.

On March 30, 1802, Congress passed an act to regulate trade intercourse with the Indian tribes and to preserve peace on the Frontiers.<sup>1</sup> The Indians were dissatisfied because the treaty regulations had not been kept by the whites and Congress was determined to keep the Indians and whites apart. The law shows an attempt to do away with some of the existing evils, provision being made for practically every regulation which has caused dissatisfaction to the Indians, through violation of their treaty rights. Section I had to do with the boundary line between the Indians and the United States, supplementing the Treaty of Greenville, and shows how<sup>2</sup> elastic the government intended that line to be; Section II

1 Laws of the United States Relative to Indian Affairs 33-35

2 "Provided always that the boundary line between the said Indian tribes (Chickasaws, Creeks, Choctaws, etc.) shall at any time hereafter be varied by any treaty which shall be made between the said tribes and the United States, then all the provisions contained in this act shall be construed to apply to the said line so varied, in the same manner as said provisions apply by force of this act, to the boundary line hereinbefore recited.







provided a fine and imprisonment for the Indian who<sup>1</sup> crossed this boundary to hunt; Section III provided for fine or imprisonment for whites entering the Indian country without a proper passport; Section IV fixed a fine and imprisonment for robbery, larceny or trespass on the lands of friendly Indians;<sup>2</sup> Section V provided for payment of damages to the Indians for loss<sup>3</sup> by theft or destruction of property; Section VI was intended to prevent settlements on Indian lands and while it sounds forceful, it did not prove so.<sup>4</sup> Section VI promised a death penalty for a white killing an Indian<sup>5</sup> within his own territory. Section VII forbade anyone

- 1 Laws of the United States Relative to Indian Affairs 33  
\$50 fine and 3 months imprisonment  
License to be obtained from the Governor of one of the United States; the army officer of the nearest post, or someone authorized by the President
- 2 Laws of United States Relative to Indian Affairs 35  
\$100 fine or 12 months imprisonment
- 3 Section V. Offender to forfeit twice the value of the property to the Indian owner. If he could not pay wholly or in part, the United States was to pay "Provided, nevertheless, that no such Indian shall be entitled to any payment out of the treasury of the United States for any such property, taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge or attempted to obtain satisfaction by any force or violence."
- 4 Section VI "If persons make settlements on Indian lands or attempt to survey it or designate boundaries, they are to forfeit not more than \$1000 and be imprisoned for not more than twelve months. The President is to be permitted to use the military forces of the United States to remove such persons."
- 5 Laws of United States Relative to Indian Affairs 37







to go to the Indian towns or hunting camps as a trader without a license from the superintendent of the department or from one properly authorized by the President to issue such a license which was to be good for only two years. Persons receiving a license were to give \$1,000

<sup>1</sup> bond. Section VIII provided for forfeiture of all goods offered for sale and a fine or imprisonment for any trader breaking the provisions of Section VII. Section X <sup>2</sup> made provisions similar to those of Section VII relative to the purchase of Indian horses, and ordered the forfeiture of all horses bought contrary to the provisions by anyone who knew he was purchasing a horse from the Indian country <sup>3</sup> contrary to law. Section XII tried to prevent the purchase of all lands from the Indians except by the United States <sup>4</sup> through treaty or convention. In Section XIII--Provision

1. Ibid 37

2. Ibid 37

3. Ibid 38 The trader had to make returns to the Government agent within 15 days; describing such horses by their colour, height and other artificial marks, under penalty of bonds.

4. Section XII "No purchase, grant, lease or other conveyance of lands or of any title or claim thereto, from any Indian or nation, or tribe of Indians, within the bounds of the United States shall be of any validity, in law or equity, unless the same be made by treaty or conventions, entered into pursuant to the constitution... Provided, nevertheless, that it shall be lawful for the agent or agents of any state, who may be present at any treaty, held with the Indians under the authority of the United States, appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claims to lands within such state which shall be extinguished by the treaty". Laws of United States Relative to Indians 38







was made for helping the Indians in agriculture.

Section XIV stated definitely the punishment to be given Indians who crossed the boundary line and committed depredations upon the whites.<sup>1</sup> Section XIX made exceptions relative to trade and intercourse with Indians, living on lands surrounded by settlements of citizens of the United States, and being within the jurisdiction of any of the individual states.<sup>2</sup> In addition, the President was authorized to issue a proclamation "prohibiting all travelling on said traces."<sup>3</sup> Section XXI gave him the power to use what means he thought advisable to prevent the sale of liquor among the treaty tribes.<sup>4</sup>

The first statement relative to the Indian question that we find made by Jefferson as Secretary of State after the Constitution had been put into effect was made in a letter from him to General Knox in which he said "I am of the opinion that the government should firmly maintain this ground; that the Indians have a right to their lands, independent of the States, within whose chartered limits they happen to be; that until they cede them by treaty or other transaction equivalent to a treaty, no act of a state can give a right to such lands.....

1. Laws of United States Relative to Indians 39
2. Laws of United States Relative to Indians 41
3. Laws of United States Relative to Indians 42
4. Laws of United States Relative to Indians 42







that the consent has never been given for the cession of lands in question; that the government is determined to exert all its energy for the patronage and the protection of the rights of Indians and the preservation<sup>1</sup> of peace between the United States and them."

In April 1795, Jefferson also expressed himself relative to the Indian problem in a letter to Charles Carroll in which he said, "The most economical as well as the most humane conduct toward them is to bribe them<sup>2</sup> in peace, and retain them in peace by eternal bribes." As President, he was more directly interested in the question because of its relation to the border troubles and dissatisfaction of the pioneers due to Spain's fluctuating policy relative to the right of deposit, which the Indian problem intensified, and to obviate which, Jefferson negotiated the purchase of Louisiana. His First Inaugural Message told Congress that the condition of the Indians was improving, and their numbers were<sup>3</sup> increasing. His later messages spoke of their living

1. Removal of the Indians 29, 57
  2. Barrows 38
  3. Otis 90 Message December 2, 1806 "We continue to receive proofs of the growing attachment of our Indian neighbors, of their disposition to place all their interests under the patronage of the United States."
- Richardson 326-332















peacably, engaged in agriculture, on the border of civilization, although the southern Indians were<sup>1</sup> more advanced than the northern ones.

Soon after the purchase of Louisiana, he proposed a constitutional amendment for removal of the Indians<sup>2</sup> to this new territory. The idea was not new, although he was the first of the Presidents to emphasize it, and this seems to be his first public record of such an opinion. In the words of this proposal, "The province of Louisiana is incorporated with the United States and made part thereof. The right of occupancy in the soil, and of self-government, are confirmed to the Indian inhabitants, as they now exist. Preemption only of the portions rightfully occupied by them, and a succession to the occupancy of such as they may abandon, with the full rights of possession as well as of property and sovereignty on whatever is not or shall cease to be so rightfully occupied by them, shall belong to the

1. Otis 91

2. Ford, P.L. Jefferson VIII 241-249 Letter to Benjamin Hawkes  
Abel--Indian Consolidation 241







1. "The Legislature of the Union shall have authority to exchange the right of occupancy in portions where the United States have full rights for lands possessed by Indians within the United States, on the East side of the Mississippi; to exchange lands on the East side of the river for those of the white inhabitants on the West side thereof, and above the latitude of 31 degrees to maintain in any part of the province such military posts as may be requisite for peace or safety;....to regulate trade and intercourse between the Indian inhabitants and all other persons....;and to establish agencies and factories therein for the cultivation of commerce, peace, and good understanding with Indians residing there.

"The legislature shall have authority to dispose of the lands otherwise than hereintofore permitted, until a new amendment of the Constitution shall give it authority. Except as to that portion thereof which lies south of the latitude 31 degrees, which whenever they deem expedient, they may erect into a territorial government, either separate or as making part with one on the earlier side of the river, vesting the inhabitants thereof with all the rights possessed by other territorial citizens of the United States."

Abel. Indian Consolidation 241 Jefferson Works  
VIII 241-244

The idea had been first voiced officially by Knox years before (as I have already stated), American State Papers Indian Affairs I 52-54, although the first advocacy of removal is probably found in the works of the Reverend Isaac M. Coy, who thought that would prevent the demoralization of the Indians. He worked among the Potawatamies from 1817-1820 and among the Ottawas, in 1828. McKenzie 7-8 and Otis 92







Jefferson's favorite plan was to cross the western country and establish trade relations with the Indians there through treaties. His idea was to establish Indian colonies, north of 31 degrees North latitude, by removal.<sup>1</sup> There had been a few colonial precedents for removal on a small scale,<sup>2</sup> but Jefferson's plan differed from these in that he contemplated an Indian territory to which all Indian tribes might be removed.<sup>3</sup> He felt that the Indian was a natural wanderer so could be easily removed.<sup>3</sup> The troubles of the decade between 1830 and 1840 show this idea was a fallacy. Another reason for his plan was that he hoped thereby to remove the cause of Indian wars and the expenses of the same by having the Indians far enough away from the whites so that encroachment on the tribal lands would stop.<sup>4</sup> The debates in congress seem to have favored his plan on the grounds that the Indian territory would form a protective barrier between Canada, Mexico and the United States. By July 1803, however, the policy was given up for twenty years because of the pressure brought to bear by the people of Louisiana.<sup>5</sup> It is clear why the citizens of Louisiana opposed this removal since they did not want more Indians near their boundaries, but

1. Abel Indian Consolidation 243-244
2. Annual Report Bureau of Ethnology 1896-7 573-590  
Osgood, Henry L. The American Colonies in the 17th Century 3 volumes
3. Abel Proposal For an Indian State 90-91
4. Abel Indian Consolidation 244 Otis 92
5. Ibid 246 Proposal For An Indian State 90-91







the fact that some Indians had asked for citizenship, not removal, added to this opposition. The Territorial Act of March 20, 1804, however, gave the President power to put Indian migration into effect as Treaty.

The arguments for Indian removal from the public at large for the next two decades may be summed up as follows. 1. The presence of the Indians retarded white expansion and the development of the country.

2. Their presence within state limits caused conflicts between the state and United States authorities, causing questions of jurisdiction. 3. The scattered conditions of the whites on the border made things insecure where the Indians could not be sufficiently controlled.

4. Philanthropists argued that the condition of the Indians could not be improved as long as they lived so near the whites. Another group argued that; 1. If the Indian were left alone he would revert to savagery.

2. That there would be no conflicts if an Indian territory were created because the Indians would become civilized in living on it, and 3. If there were delay in settling the question, the expense would be greater and the question had to be settled anyway.

1. Section XV "The President of the United States is hereby authorized to stipulate with any Indian tribe owning land on the East side of the Mississippi, and residing thereon, for an exchange of lands, the property of the United States on the west side of the Mississippi; in case the said tribes shall remove and settle thereon; but in such stipulation, the said tribes shall acknowledge themselves to be under the protection of the United States, and shall agree that they will not hold any treaty with any foreign power, individual state or with the inhabitants of any state or power; and that they will not sell or dispose of said lands, or any part







Jefferson concluded twenty-six treaties with the Indian tribes, with many of which treaties were made for the first time.<sup>1</sup>

Footnote 1 of page 133(continued)

thereof to any sovereign power except the United States, nor to the subjects of any other sovereign power, nor to the citizens of the United States.  
United States Statutes at Large 283-298

1. With the Chickasaws proclaimed May 2, 1802  
Kappler II 55-56 United States Statutes at Large 7-65
- With the Choctaws proclaimed May 2, 1802  
Kappler II 56-57 United States Statutes at Large 7-66
- With the Creeks proclaimed January 11, 1803  
Kappler II 58-59 United States Statutes at Large 7-68
- With the Senecas proclaimed January 12, 1803  
Kappler II 60-61 United States Statutes at Large 7-70
- With the Senecas proclaimed February 7, 1803  
Kappler II 61-62 United States Statutes at Large 7-72
- With the Choctaws proclaimed January 20, 1803  
Kappler II 63-64 United States Statutes at Large 7-73
- With the Delawares proclaimed December 26, 1803  
Kappler II 64-65 United States Statutes at Large 7-74
- With the Eel River Miami proclaimed December 23, 1803  
Kappler II 66 United States Statutes at Large 7-77
- With the Kaskaskias proclaimed December 23, 1803  
Kappler II 67-68 United States Statutes at Large 7-78
- With the Choctaws proclaimed December 26, 1803  
Kappler II 69-70 United States Statutes at Large 7-80
- With the Delawares proclaimed February 14, 1805  
Kappler II 70-72 United States Statutes at Large 7-81
- With the Piankashaws proclaimed February 6, 1805  
Kappler II 72-73 United States Statutes at Large 7-82
- With the Cherokees proclaimed May 17, 1804  
Kappler II 73-74 United States Statutes at Large 7-83
- With the Sacs and Foxes proclaimed February 21, 1805  
Kappler II 74-77 United States Statutes at Large 7-84
- With the Wyandots proclaimed April 24, 1806  
Kappler II 77-78 United States Statutes at Large 7-87
- With the Chickasaws proclaimed May 28, 1807  
Kappler II 79-80 United States Statutes at Large 7-89
- With the Delawares proclaimed April 24, 1806  
Kappler II 80-82 United States Statutes at Large 7-91
- With the Cherokees proclaimed April 24, 1806  
Kappler II 82-83 United States Statutes at Large 7-93







In his administration, the emphasis was on the placing the Indians under the allegiance of the United States Government by whom their trade was to be regulated as in Washington's time. We note the fact that treaties are made again and again with the same tribes, due primarily to the fact that the Indians were dissatisfied with the earlier ones; because the clauses in their favor had not been enforced, notably those relative to trespass. In almost all cases, we notice greater emphasis on the development of agriculture through government aid. The Chickasaws by granting a right of way through their territory to

Footnote 1 of Page 134(continued)

With the Cherokees proclaimed June 10, 1806  
Kappler II 84 United States Statutes at Large 7-95  
With the Creeks proclaimed June 10, 1806  
Kappler II 85-86 United States Statutes at Large 7-96  
With the Choctaws proclaimed February 5, 1808  
Kappler II 87-88 United States Statutes at Large 7-98  
With the Piankashaws proclaimed May 23, 1807  
Kappler II 89-90 United States Statutes at Large 7-100  
With the Cherokees proclaimed May 23, 1807  
Kappler II 90-92 United States Statutes at Large 7-101  
With the Ottawas proclaimed January 27, 1808  
Kappler II 92-94 United States Statutes at Large 7-105  
With the Osages proclaimed April 28, 1809  
Kappler II 95-99 United States Statutes at Large 7-107  
With the Chippewas proclaimed March 1, 1809  
Kappler II 99-100 United States Statutes at Large 7-112







United States citizens thus doomed their independence,<sup>1</sup>  
and laid the foundations for future trouble for them-  
selves and the United States.

The treaty with the Choctaws of 1802 is styled "a  
treaty of friendship, limits and accommodations". One  
needs only to know that one of its framers was James  
Wilkinson to realize that there was no accommodation for  
the Choctaws in it. Although there were land cessions  
recorded in practically all of these treaties, the Treaty  
of 1803 made with the Creeks, is the only one in which  
its framers made no claim to its being anything but a  
cession of land. We note that the annuities guaranteed  
by these treaties are considerably higher than those of

1. Article I Treaty with Chickasaws, proclaimed May 4,  
1802.

"The Mingoës, the principal men and warriors of the  
Chickasaw nation of Indians, give leave and permission  
to the President of the United States of America to lay  
out, open and make a convenient wagon road through their  
land between the settlements of Mero district in the  
state of Tennessee and those of Natchez in the Mississippi  
territory, in such a way and manner as he may deem proper;  
and the same shall be a highway for the citizens of the  
United States and the Chickasaws.....!"

Kappler II 55

cf. Treaty with Cherokees February 7, 1792







1

of the Washington treaties, the government in each succeeding administration being willing to pay higher for grants of land and the possible good will of tribes like the Creeks, Cherokees, Choctaws, and Potawatamies.

The following unique conditions in some of the groups of treaties are found. The Kaskaskias admitted in 1803 that they could not occupy all of the land that their forefathers had possessed because of loss of numbers in the membership of the tribes.<sup>2</sup> They desired means of improvement in civilized life so that they could give more certain support to their wives and children and therefore asked the Government for assistance in developing agriculture. In the case of the Delawares, the United States promised an allowance of 150 bushels of salt annually. The Indians

1. Example. Creeks January 11, 1803 Article II Kappler II 58-59 United States Statutes at Large 7-68  
\$3,000 annually for 10 years and \$1,000 annually for 10 years (by bargaining the Creeks evidently raised the price) \$25,000--\$10,000 in goods in merchandise .  
\$10,000 due by Indians to United States  
Factory cancelled  
\$ 5,000 for damage payments to citizens of the United States.
2. United States Statutes at Large 7-78 Kappler II 67-68  
Article I "Whereas from a variety of unfortunate circumstances the several tribes of Illinois Indians are reduced to a very small number, the remains of which have been long consolidated and known by the name of the Kaskaskia tribe, and finding themselves unable to occupy the extensive tract of country which of right belongs to them and which was possessed by their ancestors for many generations."







in turn allowed the building of "three houses to accommodate travellers", thus making conditions easy for white "squatters".

At the close of Jefferson's administration, the Indians of the northwest were in the state of unrest which culminated in their siding with the English in the War of 1812. In April 1808, Jefferson sent word to the Ottawas that if they should help the enemies of the United States they would have to abandon the land of their fathers; and in January 1809, he threatened "to extirpate" the same tribes from the earth or drive them to such a distance that they would never again be able to damage the United States. This is the first time that Jefferson hinted at the use of force.<sup>1</sup> He directed Governor Harrison, already mentioned, to be more careful in his methods because of conditions along the Canadian border and in the same year, the Secretary of War ordered a treaty to be negotiated if the chiefs

1. We might list as the principal causes for Indian wars
  1. nonfulfillment of treaties by United States Government
  2. frauds by its agents, and
  3. encroachments by whites on Indians' land.







of all the nations who pretended to have a right to these lands could be persuaded to be present.<sup>1</sup> At their own suggestion, some of the Sacs and Foxes were removed from Illinois to the interior of Missouri for fear they could not refrain from hostilities.<sup>2</sup>

Just before Jefferson left office Congress passed an act to give relief to certain Alabama and Wyandot<sup>3</sup> Indians. The President was to have 2500 acres of land in the territory of Orleans surveyed and leased to the Alabama Indians for fifty years. The Indians could not transfer this land and if they removed, the land was to revert to the United States. Five hundred acres in Michigan territory were to be assigned in similar fashion to some of the Wyandots.

One of the group of treaties concluded with the Indians under Jefferson was not proclaimed until Madison took office, namely that with the Kickapoos, proclaimed March 8, 1810. When Madison came into the Presidency, the situation in the territories, especially of the northwest, was very bad in spite of all the treaties that had been concluded with the Indians. The charge that the

1. Indian Office Letter Book Series I chapter 2
2. Abel Indian Consolidation 268
3. United States Laws Relative to Indians 42







English government was inciting the Indians seems to have no real authorization.<sup>1</sup> We might draw the distinction between inciting the Indians to warfare and taking pains to attach them to their own interest. It is evident, however, that discontent among the Indians with the government and people of the United States had been stirred up by British commercial interests as one of the means by which the fur trade could be kept in the hands of British traders. Packs of Indian furs were taken across the portages from the upper Mississippi into Canada. British arms and British goods were found in the hands of the Indians, which accounts for the American view point that the British government itself was behind the trouble.<sup>2</sup>

1. Professor McLaughlin says, "I am glad to be able to state after an examination of the Canadian archives for the purpose, that England and her ministers can be absolutely acquitted of the charge that they desired to foment war in the West. I do not mean to assert that they were entirely without responsibility for a condition of affairs and for a state of mind on the part of the savages which made hostilities a certainty." Annual Report American Historical Association 1894.
2. General Burch of Upper Canada said in 1812 that "and the Prophet had for years carried on war against the United States, contrary to our remonstrances;" that "the unscrupulous British traders sold guns and ammunition to the Indians in Indiana and Michigan, just as the local American traders did in competition for the same business, is probably true; that this was by direction, or connivance of the British or Canadian governments is entirely unproved." Indian Affairs I 797-804 and Babcock 32 and 33.







Madison, however, seems to have had little natural interest in the Indian question. In his message of November 2, 1809 he said, "With our Indian neighbors, the just and benevolent system continued towards them, has also preserved peace and is more and more advancing habits favorable to their civilization and happiness." Although he was inclined to be just to them, circumstances made it necessary, however, for him to act against them. The center of the trouble was at the head waters of the Wabash. The Indians of the northwest became discouraged because they were powerless to make any headway against the merciless tide of white migration. From the standpoint of the frontier whites, the Indian Wars of 1811, and the War of 1812 were the means by which it became possible to push the area of white occupation from the line of the Wabash to that of the Illinois River.<sup>1</sup> The War of 1812 itself, made it possible to open the land southwest of the Tennessee River and bring about direct connections between the farming frontier of Georgia and that of Louisiana which was to be further cause for trouble. The American collapse at Detroit in 1812 made the Indians of Mississippi, already aroused by the teaching







of Tecumseh still more uneasy.

Tecumseh and his brother, the Prophet, of the Shawnee tribe, who had taken part in the Treaty of 1804 manoeuvred by Governor Harrison, had undertaken to overthrow the treaty by threatening death to those chiefs who had participated in it. Their argument was that the Indian lands belonged to the Indian tribes all together and not to any one tribe. From 1809 to 1811, there had been much agitation in the northwest and southwest by these two chiefs. Their machinations extended even as far south as the settlements of the Creeks and the Choctaws in an attempt to united all the Indian interests in a hostile confederacy vs. the United States. Governor Harrison warned Tecumseh that violence must cease or he would take up arms against them, which he eventually did, winning the famous Battle of Tippecanoe, so well known to the average student. Following this battle, many Indians crossed into Canada and fought in the British armies. Subsequently, Harrison and his Lieutenant Richard M. Johnson won a victory on the Thames, which, following the death of Tecumseh, seemed to make the west so secure that Harrison dismissed most







of his troops.<sup>1</sup> After the War of 1812 was over, it was only a matter of detail to get rid of the rest of the northwest tribes, although they were not forced by treaty to remove until the migration of whites demanded removal.

The campaign in the southwest was most directly connected with the subjugation of the Indians of the Alabama country. Some of these Indians, especially the Creeks, under the guidance of the American government, had begun to cultivate their lands, which was irritating the Georgian and the Tennessee whites who were already coveting these lands. These tribes, however, did not profit from Spanish aid the way the southwest Indians had done from English aid. By August 1813, the Creek country was fully aroused.<sup>2</sup> Following the massacre of<sup>3</sup> about five hundred settlers by the Creeks, the Governor of the territory called upon Louisiana, Tennessee,

1. "Not more than 700 or 800 British soldiers ever crossed the Detroit River; but the United States raised fully 20,000 men and spent at least \$5,000,000 and many lives in expelling them. The Indians alone made this outlay necessary. The campaign of Tippecanoe, the surrender of Detroit and Mackinac, the massacres at Fort Dearborn, the River Raisin and Fort Meigs, the murders along the frontier and the campaigns of 1813, were the price paid for the Indian lands in the Wabash valley." Henry Adams VII 141
2. Tecumseh had visited there in 1811
3. Paxson Indian Frontier 175







Georgia, in addition to the federal government, for aid. Andrew Jackson, in command of all forces, defeated the allied Indians at Horseshoe Bend in March 1814,<sup>1</sup> and the fugitives who escaped gave no further trouble. One of the unfortunate occurrences in the United States relations with the Indians followed. Those Indians who had caused the damage had either been slain or had fled. "The quiet Creek warriors, many of whom had fought with Jackson, were the only ones who could be collected in Council. The injustice involved in punishing the good for the excesses of the bad was the ordinary part of the product of handling tribes."

The idea of an Indian buffer state between Canada and the United States was discussed during the Treaty of Ghent negotiations. It had been suggested by the Canadians, who felt that they owed a debt to the Indians who had helped them, and who knew that the principal causes of the trouble between the United States and the Indians were land disputes.<sup>2</sup> By the clever work of the American representatives, this<sup>3</sup> did not become an ultimatum. There is no question, however,

1. Ibid 255

2. Abel Indian Consolidation 270

3. Ibid 271 The American view was that the Indians were the subjects of the country in which they lived.

American Note September 9, 1814.

American State Papers; Foreign Relations XII 715-717







that even if this idea had been acceptable to the United States representatives, removal of the Indians could not have been prevented thereby.

All of the treaties with the Indians negotiated under Madison's supervision had the purpose of alienating them from British and Spanish influence and bringing them again under the protection of the United States. This is especially true of the group of treaties proclaimed December 6, 1815 and December 30, 1816.<sup>1</sup> These treaties were practically identical in subject matter if not phraseology. We should note, however, certain clauses in a few of the special treaties. Andrew Jackson framed the treaty with the Creeks of 1815 and forced them to cede land equivalent in value

1. With the Wyandots, etc. proclaimed December 21, 1824  
Compilation 103  
Kappler II 105-108 United States Statutes at Large 7-113  
With the Creeks proclaimed February 16, 1815  
Kappler II 107-110 United States Statutes at Large 7-120  
With the Potawatamies proclaimed December 26, 1815  
Kappler II 110-111 United States Statutes at Large 7-123  
With the Piankashaws proclaimed December 26, 1815  
Kappler II 111-112 United States Statutes at Large 7-124  
With the Teetons proclaimed December 26, 1815  
Kappler II 112-113 United States Statutes at Large 7-125







Footnote 1 of page 145 (continued)

With the Sioux of the Lakes proclaimed December 26, 1815  
Kappler II 113 United States Statutes at Large 7-126  
With the Sioux of St. Peter's River proclaimed Dec. 26, 1815  
Kappler II 114 United States Statutes at Large 7-127  
With the Yankton Sioux proclaimed December 26, 1815  
Kappler II 115-116 United States Statutes at Large 7-129  
With the Makaks proclaimed December 26, 1815  
Kappler II 116-117 United States Statutes at Large 7-130  
With the Kickapoos proclaimed December 26, 1815  
Kappler II 117-119 United States Statutes at Large 7-131  
With the Wyandots, etc. proclaimed December 26, 1815  
Kappler II 119-120 United States Statutes at Large 7-133  
With the Osages proclaimed December 26, 1815  
Kappler II 119-120 United States Statutes at Large 7-133  
With the Sauks proclaimed December 26, 1815  
Kappler II 120-121 United States Statutes at Large 7-134  
With the Foxes proclaimed December 26, 1815  
Kappler II 121-122 United States Statutes at Large 7-135  
With the Iowas proclaimed December 26, 1815  
Kappler II 122-123 United States Statutes at Large 7-136  
With the Kansas proclaimed December 26, 1815  
Kappler II 123-124 United States Statutes at Large 7-137  
With the Cherokees proclaimed April 8, 1816  
Kappler II 124-125 United States Statutes at Large 7-138  
With the Sauks proclaimed April 8, 1816  
Kappler II 125-126 United States Statutes at Large 7-139  
With the Sioux proclaimed December 30, 1816  
Kappler II 126-127 United States Statutes at Large 7-141  
With the Winnebagos proclaimed December 30, 1816  
Kappler II 128-130 United States Statutes at Large 7-143  
With the Uncas and Kickapoos proclaimed December 30, 1816  
Kappler II 130-131 United States Statutes at Large 7-144  
With the Ottawas, etc. proclaimed December 30, 1816  
Kappler II 131-132 United States Statutes at Large 7-145  
With the Cherokees proclaimed December 30, 1816  
Kappler II 132-133 United States Statutes at Large 7-146  
With the Chickasaws proclaimed December 30, 1816  
Kappler II 133-134 United States Statutes at Large 7-148







to the expenses of the war.<sup>1</sup> A few chiefs who had remained friendly to the United States were to receive a land grant in fee simple, one mile square, centered around the improvements. From "motives of humanity", the Government was to furnish supplies to the Indians until their next corn crop was harvested.<sup>2</sup>

During the war, the Governor of South Carolina had asked Madison to remove the Cherokees from the state. Settlers appropriated the contested territory and declared that they would vacate it only upon understanding that it was part of the public domain. Therefore, the Cherokees had to promise to cede their lands

1. "1st The United States demand an equivalent for all expenses incurred in prosecuting the war to its termination, by a cession of all the territory belonging to the Creek nation, within the territories of the United States, lying west, south and south-eastwardly, of a line to be run and described by persons duly authorized and appointed by the President of the United States". Kappler II 108
2. "7th The Creek nation being reduced to extreme want, and not at present having the means of subsistence, the United States from motives of humanity, will continue to furnish gratuitously the necessaries of life, until the crops of corn can be considered competent to yield the nation a supply." Kappler 109. How Jacksonian!







within that state.<sup>1</sup> As a poor recompense the United States agreed to pay to this nation \$25,000 for damages committed by troops who had marched through their territory during the war.<sup>2</sup>

The Wyandots, Delawares, Shawnees, Senecas and Miamis were to have their old tribal boundaries reestablished in return for helping the United States in its war vs. Great Britain.<sup>3</sup> The Sacs were to lose all their annuity payments provided that they did not return all confiscated property before July 1, 1816.<sup>4</sup> In the case of the Chickasaw Treaty, we note special reservations for chiefs with white names, probably half breeds.<sup>5</sup> The Chickasaws were assured likewise that no traders would be given a license to enter their territories under penalty of forfeiting all their goods, which is most unusual.<sup>6</sup> It is interesting

1. Cf. Creeks
2. Article 5 Kappler II 126
3. Kappler II 108
4. Kappler II 129
5. Colonel George Colbert, John McCluihy, Appassan Tully Kappler II 135
6. Article 7 "Whereas the chiefs and warriors of the Chickasaw nation have found, from experience, that the crowd of pedlars, who are constantly traversing their nation from one end to the other, is of serious disadvantage to the nation; that serious misunderstandings and disputes frequently take place, as well as frauds which are often practiced on the ignorant and uninformed of the nation, therefore it is agreed by the commissioners on the part of the Government.... that no more licenses shall be granted by the agent of the Chickasaws to entitle any person or persons to trade or traffic merchandise in said nation." Kappler II 136







to note two special laws passed by Congress in 1815, and signed by Madison to recompense Anthony Shane, a half-breed, and Young King, a Seneca Chief, for<sup>1</sup> services during the war.

An important act was the one of April 29, 1816 supplementary to the earlier act of March 1802, which even with all its provisions had not worked out satisfactorily. In this case there was to be forfeiture of all goods carried in or out of the Indian country contrary to the terms of the act.<sup>2</sup> One half of these goods to be for the use of the informer, the remainder to the<sup>3</sup> United States. This is rather suggestive of the Old Roman proscriptions and the delations! Another act<sup>4</sup> was approved by Madison on March 3, 1817, making provision

1. Shane was to receive 320 acres in Ohio as soon as the Indian title was extinguished to hold in fee simple, part of which he had improved. Laws Relative to Indian Affairs 43. Young King was to receive \$200 per annum paid quarterly. Ibid 44.
2. Sections II and III. Laws Relative to Indian Affairs 45.
3. "Provided that the goods, wares, and merchandise are seized prior to their sale to an Indian or Indian tribe; and the articles purchased are seized before they are removed beyond the limits of the United States".
4. Laws Relative to Indian Affairs 46







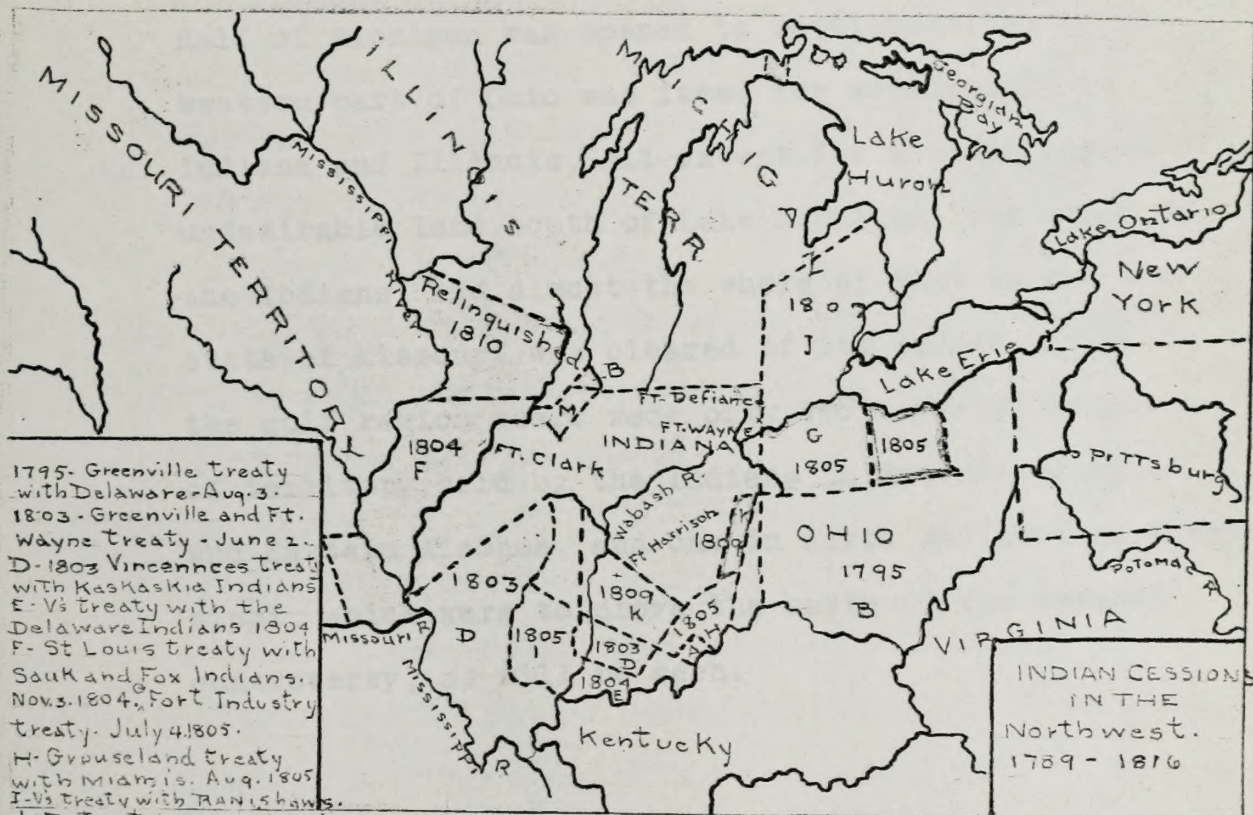
for lands with their improvements to be assigned to certain Creek chiefs according to the treaty of August 9, 1814 to which reference has already been made, "as long as he shall cultivate the same," the surveying of the land to be in accordance with the act of March 3, 1815.<sup>1</sup> Provision was likewise made that in case of the deaths of the above before the law could be carried into effect, the lands were to be selected by their widows and children, such lands not to be alienated until all the children had reached the age of twenty-five.<sup>2</sup> This was extended to all children of Creeks who had remained friendly during the war, each to be allowed a quarter section,<sup>3</sup> which they were to own in fee simple with the right to will the land to their children.<sup>4</sup> The children of Creek warriors who had died in the service of the United States as soldiers were to receive what he would have received.<sup>5</sup> Because there had been so many crimes committed within the Indian

1. This was to amount to a section<sup>2</sup> "And in case such chief or warrior shall have resided at one place, and cultivated a farm or plantation at another place, he may, at his option, select such  $\frac{1}{4}$  section and fractional parts of such sections as shall include his said separate improvements. Provided, however, that the lands so selected, shall endure to such chief or warrior so long only as he shall continue to occupy and cultivate the same." Laws Relative to Indians 46
2. Laws Relative to Indians 46
3. Ibid 47
4. If there were no children the land was to revert to the United States.
5. Laws Relative to the Indians 47









hanning- Jeffersonian  
 System.







boundaries, an act was also passed March 3, 1897, providing for the punishment of such offenses in Indian towns, according to the regular laws of the United States.

Between 1812 and 1830, the Indian title was extinguished by treaty to vast regions of the middle West. Half of Michigan was opened to settlement; the northwestern part of Ohio was freed for settlement; in Indiana and Illinois, all except for a small region of undesirable land south of Lake Michigan, was ceded by the Indians; and almost the whole of what is now the state of Missouri was cleared of its Indian title. In the gulf region there were only two isolated sections of territory held by the Indians in western Georgia and Eastern Alabama, and one in north and central Mississippi, which were to prove the basis of the removal controversy, as will be seen.







## SUMMARY II

The general Indian policy of the United States government has not been a credit to it for the methods were inefficient, vacillating, changing and far from a benefit to the Indians whom the government was desirous of helping. Many treaties were made only to be broken as the result of pressure brought to bear by pioneers and politicians.

When Washington became President, the frontier situation was threatening, the Indians realizing that the United States had not got possession of the lands granted them by the Treaty of 1783. Washington considered the Indian question of enough importance to discuss it in his First Inaugural Address, when he stated that his policy was to be one of conciliation by pacific means, if possible, otherwise by forceful ones. He realized that pacific measures were often uncertain and it was sometimes necessary to use force to gain decisive results.

The Treaty of Fort Stannix, with the Six Nations was the result of the first successful conference, and the







representatives of these nations, meeting the President in Philadelphia promised to help in conciliation with the other tribes. The frontier Indians were still in a state of unrest, due in a large part to Spanish intrigue. These Indians delivered an ultimatum to Commissioners sent to pacify them to the effect that all earlier treaties made with their tribes had been illegal because the tribes had not been properly represented at the time the treaties were made; that they wanted no money payment but they did need goods, that Great Britain had had no right to cede away their lands; and lastly, that they had moved as far as they could and the Ohio must be the final boundary of their lands.

South of the Ohio, the Choctaws were giving little trouble but the well armed Cherokees, who had taken refuge with the Creeks, would have nothing to do with the Commissioners. The Creek Chiefs finally came to New York, where both sides made concessions. In the resulting treaty, the United States established a system of annuities in rations, etc; which was to prove so expensive and unwise in the long run. Whereupon, Congress appropriated money to be expended under the supervision of the President for such purposes.







Washington decided finally to send St. Clair into the western country to stop all disorders. When the campaign proved a failure, he appointed Anthony Wayne, also of Revolutionary fame, to carry out his plans. As a result of the latter's success at the Battle of Fallen Timbers, the important Treaty of Greenville was negotiated in August 1795, which became a model for subsequent Indian treaties. This treaty also proved the entering wedge in breaking up the Indian confederacy in the west and led to other Indian treaties, ten in all during Washington's presidency. Taken as a whole, his policy had been a success in spite of opposition from various sections brought to bear by politicians.

To carry out the trade agreements of these treaties, Congress passed Trade and Intercourse Acts, also a Trading House and a Factory Act, the results of which were likewise expensive because several of them were directly associated with removal, especially with the Act of 1834. The Trading House Act gave the President authority to establish trading posts in the western and southern frontier in places where he judged most convenient for carrying on trade with the Indians. The object was to acquire the friendship of the Indians, thus counteracting







the influence of British traders, \$150,000 being appropriated to carry this into effect. The Indians were to get their goods at cost, and the framers thought that the Indians would trade with the government factory rather than with the private trader. The private trader won out with his inducements of liquor and advances. The factory system failed then, because the government did not make its own traders the sole salesmen within the district. Public opinion finally demanded the repeal of the act which resulted in 1812.

From the argument of silence we deduce the fact that John Adams was not particularly interested in the Indian policy question, perhaps because he was more interested in the alien difficulties of the day. However, there were two treaties proclaimed during his administration; one with the Mohawks, who surrendered their land claims in New York State and one with the Cherokees, which attempted to straighten out causes for their dissatisfaction. The action of the whites had made the frontier Indians restless as Governor St. Clair's message to the Territorial Legislature of Ohio in 1800 showed. The treaty methods of Governor Harrison, appointed to the New Indiana territory in 1800, did much harm. In







1800, Congress passed an act to ration Indians visiting the seat of Government or military post. While the act seemed necessary at the time, the effects were bad in that the Indian tended to become pauperized thereby.

Soon after Jefferson came into office, Congress passed an act to regulate trade intercourse with the Indian tribes and to preserve peace on the frontiers, its purpose being to do away with the causes of dissatisfaction among the Indians there because of the infringement of treaty regulations made with them. As early as April 1795, in a letter to Charles Carroll, Jefferson expressed himself relative to the Indian problem, believing that peace could be made by bribing them to make treaties. As President, he became more directly interested in the question because of border trouble, although in his First Inaugural address and some other early messages, he stated that the Indians were living in a peaceable state, engaged in agriculture. Soon after the purchase of Louisiana, he proposed a constitutional amendment, creating an Indian state within that district and the removal of all Indians to it. The Territorial Act of 1803, gave the President the power to put Indian migration into effect through treaty, even though Congress







did not pass his proposed amendment. Jefferson concluded twenty-one treaties with the Indians on a great variety of subjects. In spite of them, however, the condition of affairs on the frontier became so unpleasant because of the dissatisfaction among the tribes, which was greatly increased by British intrigue that Jefferson found it necessary to threaten some of the tribes with removal if they took sides with the enemies of the United States.

Thus, when Madison became President, he found a most unsatisfactory situation of affairs. There is no evidence to show that the British government had had anything to do with inciting the Indians but her traders did because of their interest in the fur trade which they did not want diverted to American traders. Madison had little natural interest in the Indian question, although he was inclined to be just to them, until circumstances made it necessary for him to act. Harrison, as the result of the Battle of Tippecanoe and the Thames, quieted the Indians along the Wabash, and Jackson the southern Indians as a result of the Battle of Horseshoe Bend. The treaties forced from the Indians by these two commanders were a fearful punishment for their faltering allegiance.







The English representatives at the Treaty of Ghent tried to get our representatives to agree to the formation of a buffer Indian state between Canada and the United States. This plan failed, however. All of the treaties negotiated under Madison's supervision, following the war of 1812, were for the purpose of alienating the Indians from English and Spanish influence and bringing them again under the protection of the United States. Rewards were given to certain chiefs and warriors who had remained faithful, in the form of land grants to be held in fee simple.

Between 1812 and 1830, the Indian title was extinguished by treaties ceding large amounts of land in Michigan, northwestern Ohio, most of Indiana, and Illinois, most of Missouri, etc.







### OUTLINE III

## PREPARATION FOR INDIAN REMOVAL UNDER MONROE AND JOHN QUINCY ADAMS.

### I. Monroe's Policy

A. Still asked for land cession but added

B. Demand for removal of Indians in place of guaranteeing reservations

#### 1. Monroe, Calhoun, Jackson for removal

a. Jackson's wars especially with Creeks and Seminoles started migration

b. Desire of settlers for quick confiscation and sale of Indian land

1. True in South as well as West

c. Demands of politicians for land reserves

#### 2. Monroe's policy worked out more fully and permanently than that of his predecessors

a. Early interest in question as member of Congress of Confederation and Indian Commissioner

1. Saw poverty of much western land

b. First Annual Message December 2, 1817

1. Spoke of recent purchases of land from the Indians

2. Advocated general deportation of all Indians west of the Mississippi

3. and civilization of frontier Indians

c. Treaties of 1817--all much alike

1. Indians acknowledge protection of United States

2. Cherokee treaty contains first of removal clauses

(a) Those who wished to remain were allowed to do so

d. Second Inaugural Address March 4, 1821

1. Advocated grants to individual Indians

2. Help to Indians in agriculture and civilization







3. Southern politicians declared all money spent on Indians thrown away because they were only tenants at will of the states
- e. In Reply--Message of December 7, 1824
  1. Monroe advocated removal but
  2. No force in carrying it out
- f. Calhoun creates Bureau of Indian Affairs
  1. Reports for removal to keep from white pressure
  2. Advises solemn assurance to Indians that they will not be disturbed in their new home
- g. Incorporated into Monroe's special message of 1825
  1. Advised removal of Indians west of the Mississippi and
  2. Adoption of a good scheme of government for them
- h. Creation of Indian Territory
  1. To be home of eastern tribes, removed to west
  2. Treaties to acquire from western Indians
- i. Discussions in Congress show Congress felt western country should be red man's territory solely
- j. Monroe negotiated forty treaties
  1. Seven negotiated by Madison concluded by Monroe
    - (a) Famous Cass Treaty with Menominees
      - (1) Fairness
      - (2) Those removing to have new grants west of Mississippi
      - (3) Those remaining to life estate in fee simple, especially for half breeds
      - (4) Opposed by Senate because of (3)
      - (5) Indians demanded payment in specie
  2. Monroe's Treaties all included land cessions calling directly or indirectly for removal
    - (a) Repetitive treaties with same tribes Creeks, Cherokees, etc.
    - (b) Provision for 640 acre grants to special individuals
    - (c) Two groups







- (1) Increased money payments Creeks  
March 28, 1818
  - (a) Annuities--Chickasaws January 7, 1819  
Annuities--Delawares January 15, 1819  
Annuities--Weas January 7, 1819
  - (b) United States assumed control of Indian education--Cherokees  
March 10, 1819  
Funds acquired by sale of land, and invested
  - (c) Interests of Groups
    - (1) Chickasaws reserved salt lick, etc.
- (2) All provided for land cessions made with Indians farther West.
  - (a) Increased payments in agricultural tools and domestic animals
  - (b) Assistance rendered Indian Removal by United States
    - (1) Annuities paid in advance  
Kickapoos May 10, 1821
    - (2) Special materials Choctaws  
January 8, 1821
  - (c) Reservations of hunting lands and fishing rights Chippewas March 2, 1821
  - (d) Increased money payments Creeks  
March 2, 1821
  - (e) Unique reservations
- 3. Congressional Acts
  - (a) Act of February 20, 1819  
President to purchase land from Creek Chiefs reserved by Act of March 3, 1817
  - (b) Act of February 24, 1819
    - (1) Provision for auditing and checking of expenditures for Indians
  - (c) Act of March 3, 1819
    - (1) President to appoint teachers for children; of agriculture
  - (d) Act of March 31, 1819
    - (1) Appropriations to carry out above treaties
    - (2) Agent of Wyandots at \$1200 a year







4. Congressional Acts
  - (a) Act of May 6, 1822
    - (1) Abolished factories
      - (a) Goods in reserve to be used by President for Indian payments
  - (b) Act of March 30, 1802
    - (1) Traders to be under bonds to be licensed
    - (2) Goods to be searched for liquors
    - (3) Burden of proof on whites in case of court case with Indians
  - (c) Act of January 31, 1823
    - (1) No payments in advance for services
5. Monroe's last Annual Message
  - (a) Urged adoption of plan to handle Indian question
6. Three Principles of Monroe and his Successors
  - (a) Executive to have power to negotiate treaties which Senate must approve
  - (b) Emigrating tribes to be placed on western reservations
  - (c) Eastern tribes must be persuaded to migrate

## II. The Policy of John Quincy Adams

1. Forced to take an interest in Indian question
  - a. Administration attacked for negotiating treaties with Indians before act of appropriation by Congress
2. Inherited Indian Difficulties from Monroe
  - a. States demanding extinguishment of Indian title and removal beyond Mississippi
  - b. Georgia insisting on fulfillment of Compact of 1802
  - c. Treaty of Indian Springs not satisfactory
    - (1) Some Creeks declared illegal because not ratified by majority of nation
3. First Inaugural Address
  - a. Outlined Indian situation relative to carrying out acts of May 25, 1824 and March 3, 1825
  - b. Treaty of Indian Springs already ratified
4. Cabinet Meetings Discussed Indian Situation
  - a. Clay felt doom of Indians sealed. Not worth preserving.







5. Question of Creeks
  - a. Attempt to carry out Compact of 1802 by removing them.
  - b. Creek chiefs said ruin would follow removal
  - c. Commissioners said must come under laws of white or remove
  - d. McIntosh group negotiated Treaty of Indian Springs
  - e. Opposed by majority of Creeks under Little Prince and Big Warrior
    - (1) Declared Treaty unlawful because made by minority and
    - (2) Would not cede another foot of land
  - f. Negotiations reopened with Creeks under Appropriation Act of May 8, 1824
    - (1) No result
  - g. Governor Troup's Proclamation
    - (1) Creek lands annexed on ground Treaty of Indian Springs in effect as soon as ratified by Senate of United States
    - (2) Ordered lands surveyed
    - (3) Troup warned by Adams but kept on surveying
  - h. Delegation from Creeks in Washington
    - (1) Adams now felt removal best way out of difficulty
    - (2) Both factions agreed to Treaty of Washington
    - (3) Adams gave reasons for ratification
      - (a) McIntosh group trying to gratify a private grudge
      - (b) Impossible to get complete cession so agreed to exception
  - i. Troup denied right of United States to invalidate Treaty of Indian Springs. Went on surveying
    - (1) Barbour ordered surveying to stop
    - (2) Troup continued
    - (3) Georgia Legislature backed Troup
  - j. Discussion at Cabinet Meeting of January 27, 1827
    - (1) Clay thought civil process sufficient to protect Indians
    - (2) Act of 1802 did not fit case. Advised consulting of Congress before using troops.







- k. Troup defied Federal Government to do its worst
- l. Creeks appealed to United States
- m. Adams gave reason to Congress for not using military forces
  - (1) Surveyors backed by Georgia troops
  - (2) Wanted to avoid a clash with them
  - (3) Matters at a standstill

6. Question of Alabama and Creeks

- a. Reversion of Creek lands in Alabama following Treaty of Washington
- b. Alabama passed criminal and civil act placing them under her jurisdiction
- c. United States District Court vs. Alabama
- d. Aided by decision

7. Seminoles

- a. Plan to conduct with military escort to reservation
- b. To be rationed by Government
- c. Rations fell short--suffering
  - (1) Some Seminoles refused to go farther
  - (2) Others went to investigate
  - (3) Lost land titles
  - (4) Reduced to thieving for existence
- d. Plan to have Seminoles go west with Creeks

8. Troup's trouble with Cherokees

- a. In 1826, Cherokees refused the right to prospect for a canal through their territory
- b. Spread of cotton cultivation made Georgia need more land for settlement







- c. Georgia's argument--Constitution vs. creation of state within a state, except with consent of state
- d. Cherokees said could not permit survey without consent of Secretary of War
- e. Troup replied to Barbour's request to desist--threat to use force
- f. Georgia annexed Cherokee lands to De Kall and Carroll counties for purposes of criminal jurisdiction
- g. Cherokees consulted Wirt, Marshall, Clay and Webster
- h. Supreme Court Decision for Cherokees
- i. Nothing accomplished, Left to Jackson, etc.

9. Question of Missouri vs. Indians

- a. Asked why should accept Georgia and Illinois Indians when those states wanted removal
- b. Shawnees of Missouri and Ohio unite
- c. Kansas and Osages grant them land
- d. Trouble adjusted

10. Laws of John Quincy Adams's Administration

- a. To carry into effect Laws of May 6, 1822 and May 25, 1824, relative to treaties and road to Mexico

11. Treaties of Adams's Administration

- a. Similar to those of Monroe
- b. Grants for land further west







c. Right of way clauses

Osage December 20, 1825--right to navigate--Waterways

Great and Little Osage May 3, 1826--right to build road between United States and Mexico through their lands

Potawatamies February 7, 1827. Indiana to build road to Wabash

d. Mineral rights

Chippewas February 7, 1827 United States to have mineral rights

Winnebagoes January 7, 1827 United States paid damages for trespass by its citizens near the lead mines

e. Large payments--Potawatamies January 7, 1829

f. Increased cleverness of Indians in making agreements

(1) Elimination of transportation costs

(2) Indians to select own lands or negotiate before accepting.







PREPARATION FOR INDIAN REMOVAL UNDER MONROE  
AND JOHN QUINCY ADAMS.

With the coming of Monroe, we find a difference in the Indian treaty policy of the United States. The first four presidents laid the emphasis on treaty cessions from the Indians with recognition of reservations for them, while Monroe, still asking for land cessions from them, insisted on their removal, generally beyond the Mississippi, instead of guaranteeing the reservation of part of the lands of occupying tribes. In general, the custom had been that a tribe in ceding land that it held by original occupancy, reserved from its cession a specified part of it, this part being held under the original right of occupancy with the consent of the United States Government.<sup>1</sup> As a general rule, the Indians on a reservation could make no lease of land, sales of standing timber, grants of mining privileges, or right of way to rail-roads without the consent of Congress.<sup>2</sup>

Monroe, his Secretary of War, Calhoun, and Jackson, all favored vigorous measures, all advocating removal.

1. Bulletin 24 Office of Indian Affairs. In Canada the custom was to confirm the Indians in possession of their residential tracts instead of collecting them on reservations established for the purpose, although there were reservations there established by treaties as in the United States.
2. Bulletin 24







Although this was not a new idea, it had not become a definite administrative policy before this time.<sup>1</sup> The migration of the Indians was finally brought about as the result of Indian wars, most of which were carried to a successful issue by Andrew Jackson, notably the Creek War in Alabama, Georgia, Mississippi, and Tennessee, from July 27, 1813 to August 9, 1814. In this war, "Jackson defeated the Creeks at Emuckfau, January 22, 1814, at Enotochopco, January 24, 1814, and finally, at Horse-shoe Bend on the Tallapoosa, March 17, 1814.<sup>2</sup> The Creeks lost about two thousand warriors. In 1817 and 1818, came the Seminole War in Georgia and Florida, during which war, Jackson took possession of the Spanish territory, seizing<sup>3</sup> St. Marks and Pensacola Florida and hanged two Englishmen<sup>4</sup> for inciting the Indians, which forced the latter to terms. The other Indian campaign was the one against the Aricharee<sup>5</sup> Indians on the upper Missouri. Considerable pressure was

1. Manypenny 104 "The policy of removing the Indian tribes from seat to seat as the white settlements pressed upon them, which was adopted at a very early date, has at all times, resulted disastrously to the Indians. It has also been a frightful source of corruption. It is believed that there are but few instances in which perfect good faith in all respects has governed in the removal of a tribe from an old to a new home. In numberless instances, removals have been brought about, not because there was a necessity for them, but with a view to the plunder and profit that was expected to result from the operation."
2. Bulletin 14 Indian Affairs Child 18
3. Arbuthnot and Ambrister Bulletin 14 Indian Affairs
4. Bulletin 14 Indian Affairs Child 18 Bassett 76-89
5. Ibid - Mrs. Jameson, the English traveller, wrote relative to Indian treaties--"The mean petty trade style in which American officials make and break treaties with the Indians is shameful. I met no one who attempted to deny it or excuse it." Child 19







brought to bear by settlers who hoped that the lands of hostile tribes would be confiscated and then thrown upon the market at a nominal price. The southern settlers desired it even more than the western ones. Then, too, politicians seemed to think that an immense surplus of land must be held in reserve, cleared of Indians, all ready to advertise for sale.<sup>1</sup> In fact, the extinguishment of Indian lands to make public lands became almost a mania.

Monroe's Indian policy was worked out more fully and permanently than that of any of the preceding presidents. Interest in the Indian question did not begin in the case of Monroe with his presidency. He had been a member of the Congress of the Confederation when the question of war and peace with the Indian tribes was not an uncommon subject for debates.<sup>2</sup> In August 1785, he went as one of the Indian commissioners to discuss peace with the Shawnees at the mouth of the Great Miami.<sup>3</sup> In a letter to Jefferson January 16, 1781 he wrote<sup>4</sup>, "But the danger from the Indians, made it imprudent for me to pass the river, and the delay at Fort Pitt, and upon the Ohio, the water being low, consumed so<sup>5</sup>

1. Abel Indian Consolidation 270 Paxson Indian Frontier 283
2. Morgan, George Life of James Monroe 104
3. Ibid 116-117  
Letters to Jefferson dated July 2, 1785, August 25, 1785, giving itinerary, etc.
4. Ibid 117
5. The Mississippi rose in April of this year to a height of 30 feet and so the year was called "L'annee des grand eaux!" The opposite was the case in the fall.







much of the time allotted for this excursion, that I was forced to leave the Commissioners at Limestone, and take my course directly through the Kentucky settlements and the wilderness to Richmond." As a result he was not present when the treaty with the Shawnees was finally made.<sup>1</sup> It is worthy of note, that in his report to Congress, Monroe said, that the west contained a great amount of poor land, which, nevertheless, did not prevent the would be settlers from considering these lands their El Dorado.

In his first annual message, December 2, 1817, Monroe spoke of recent purchases of land by treaty with the Indians, and our relations with them,<sup>1</sup> recommending provision for the better civilization of the Indians upon the Western frontier and advocating general deportation of all Indians then living east of the Mississippi. Jefferson, whom it will be remembered was the first president to voice removal, said of this message, "There is only one passage in President Monroe's message of which I disapprove and which I trust will not be approved. It is that which proposes to subject the Indians to our laws without their consent. A little patience and a little money are so rapidly producing their voluntary removal across the Mississippi that I hope this immorality

1. Gilman James Monroe 230-231







will not be permitted to stain our history."<sup>1</sup>

In the December of the same year, treaties were proclaimed with the Menominees,<sup>2</sup> Ojibwas,<sup>3</sup> Purchas,<sup>4</sup> and<sup>5</sup> Cherokees, which completed the groups of treaties started in Madison's administration. All the tribes acknowledged the protection of the United States, both sides pledged forgiveness for past injuries, and peace and friendship to one another. In the Cherokee Treaty, however, we find the first of the definite removal clauses, whereby the Cherokees ceded land to the United States in return for an equal amount of good agricultural land west of the Mississippi to which they might remove. Such removal was not to be forced but those who wished to remain were to do so under the protection of the United States. A good part of this population became gradually mixed with the whites. (See later discussion)

In his second inaugural address March 4, 1821 Monroe recommended that the Indians, instead of being treated as independent nations, should be settled on lands granted to them as individuals, and helped to improvement in agriculture and civilization.<sup>6</sup> In 1820, the Choctaws had been

1. Curtis--The True Thomas Jefferson 301

2. Kappler II 138

3. Ibid 139

4. Ibid 140

5. Ibid 140-144

6. Gilman 236







assigned a new home in the west to include a considerable part of western Arkansas, and that part of the present state of Oklahoma, south of the Canadian and Arkansas rivers.<sup>1</sup> The southern politicians now declared that no president since Washington had known the real meaning of Indian laws and treaties and that the time and money spent in making treaties with them was thrown away because the Indians were really only tenants at will within state boundaries.<sup>2</sup>

As a result of this, Monroe in his Message of December 7, 1824,<sup>3</sup> stated definitely that while advocating removal he was opposed to the use of force in carrying it out. In his own words, "The condition of the aborigines within our limits and especially those who are within the limits of any of the states, merits peculiar attention. Experience has shown that unless the tribes be civilized, they can never be incorporated into our system, in any form whatever. It is likewise shown, that in the regular augmentation of our population, with the extension of our settlements, their situation will become deplorable, if their extinction is not menaced. Some well digested plan which will rescue them from such calamities is due to their

1. Bulletin 24 Indian Affairs
2. Drake 111
3. Richardson 261







rights, to the rights of humanity, and to the honor of the nation. Their civilization is indispensable to their safety, and this can be accomplished only by degrees. Difficulties of the most serious character present themselves to the attainment of this very desirable result on the territory on which they now reside, to remove them from it by force even with a view to their security or happiness would be revolting to humanity and utterly unjustifiable."<sup>1</sup>

On March 11, 1824 John C. Calhoun, Secretary of War, had written a letter to Colonel McKenney creating him chief of a Bureau of Indian Affairs. This was the first definite step in assuming a guardianship over the Indians. The United States were not compelled to do this because of any constitutional requirement. Colonel McKenney took charge of the Indian appropriations for the payment of annuities and current expenses. He was required to receive and examine the accounts and vouchers and pass them on to the proper auditors' offices for settlement. He also administered a small fund for the civilization of the Indians, and took charge of the examination of claims arising out of the laws regulating the intercourse with Indian tribes, and the original correspondence of superintendents, agents and sub agents







which passed through the bureau. The Secretary of War promised Colonel McKenney that the salary of \$1600 a year would be raised when the President should secure the organization of an Indian department which was done by Congressional Act of 1832, creating a commissioner<sup>1</sup> of Indian affairs at a salary of \$3000 a year.

In his special message of 1825,<sup>2</sup> Monroe transmitted<sup>3</sup> to Congress the report of the Secretary of War relative to the removal of the Indians to a line to be established west of the Mississippi and advocating that some scheme<sup>4</sup> of good government for them be adopted. He quoted from Calhoun's report "One of the greatest evils of our Indian population is that which forces them from seat to seat without allowing them time for that moral and intellectual improvement for which they appear to be naturally eminently susceptible; to guard against the evils fatal to the race, there ought to be the strongest and most solemn assurance

1. Bulletin 25 Indian Affairs
2. Richardson II 280-283
3. Bulletin 24 Indian Affairs Schoolcraft III 513
4. Manypenny 99 "I recommend Congress to adopt by solemn declaration, certain fundamental principles in accord with those suggested, as the basis of such arrangements as may be entered into with the several tribes, to the strict observance of which the faith of the nation shall be pledged. I recommend it also to Congress to provide, by law, for the appointment of a suitable number of commissioners, who shall under the direction of the president, be authorized to visit and explain to the various tribes the object of the government and to make with them according to instructions, such arrangements as shall be best calculated to carry these objects into effect." Manypenny 100 Schoolcraft III 513







that the country given them shall be theirs as a permanent home for themselves, their posterity, without being disturbed by an encroachment of our citizens." Monroe closed the message by saying himself, "Experience has demonstrated, Calhoun said, that in their present state, it is impossible to incorporate them in such masses in any form whatever into our system. It has also demonstrated with equal certainty that without a timely anticipation of a provision against the danger to which they are exposed under causes which it would be difficult, if not impossible to control, their degradation and extermination would be inevitable".....Satisfied as I am that the removal proposed is not only practicable but that the advantage attending it to the Indians may be made so apparent<sup>1</sup> that all the tribes, even the most opposed, may accede to it."

In accordance with this plan, the present Oklahoma with the greater part of what is now Kansas, was consolidated into a territory, under the name of "Indian Territory" as a permanent home for tribes moved from the more settled<sup>2</sup> portions of the United States. (see map) A large part of<sup>3</sup> the territory was acquired from the Osages and the Kansas,

1. Otis 95 Manypenny 99

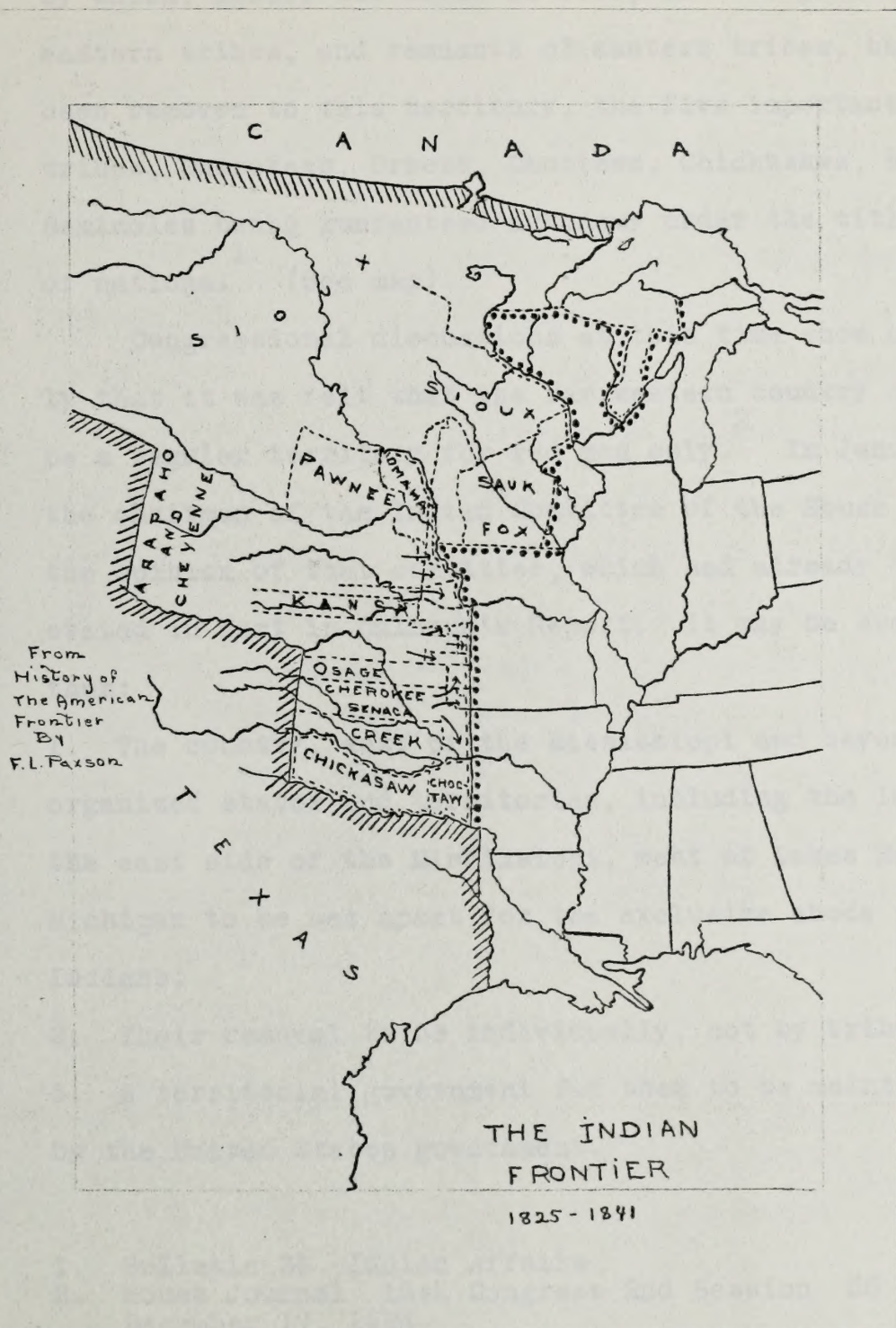
2. Manypenny 1022 Paxson Indian Frontier 276

3. Manypenny 100













following which a series of treaties were inaugurated by which, before the close of 1840, all the principal eastern tribes, and remnants of eastern tribes, had been removed to this territory, the five important tribes, Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles being guaranteed autonomy under the title of nations.<sup>1</sup> (See map).

Congressional discussions at this time show clearly that it was felt that the far western country should be a regular territory for red men only.<sup>2</sup> In January 1826, the chairman of the Indian Committee of the House outlined the opinion of that committee, which had already been stated in part in Calhoun's Report. It may be summarized thus:

1. The country, west of the Mississippi and beyond the organized states and territories, including the land on the east side of the Mississippi, west of Lakes Huron and Michigan to be set apart for the exclusive abode of the Indians;
2. Their removal to be individually, not by tribes;
3. A territorial government for them to be maintained by the United States government.

1. Bulletin 24 Indian Affairs
2. House Journal 18th Congress 2nd Session 56  
December 17, 1824  
19th Congress 2nd Session 97  
December 27, 1825



Following which a series of studies were conducted by which, before the close of 1950, all the principal eastern tribes, and remnants of western tribes, had been removed to this territory. The five largest tribes, Ojibwa, Cree, Ojibwa, Ojibwa, and Ojibwa, had been removed to this territory. (See map.)

Governmental administration at this time was chiefly by that it was felt that the far western country should be a regular territory for and was only. In January 1950, the chairman of the Indian Commission of the House notified the opinion of that committee, which had already been stated in part in Johnson's Report. It was recommended that:

1. The country, west of the Mississippi and between the organized states and territories, including the land on the east side of the Mississippi, west of Iowa River and Michigan to be set apart for the exclusive benefit of the Indians;

2. Their removal to be immediately, and by force;

3. A territorial government for them to be established by the United States Congress.

1. Bill passed by Indian Affairs  
2. House Journal 1950 Congress and Session 55  
December 17, 1950  
1950 Congress and Session 57  
December 17, 1950

4. If circumstances should eventually justify it, the extinction of the tribes and their amalgamation with one mass, with a distribution of property to the individual Indians;

5. The condition of the now emigrating Indians to remain<sup>1</sup> unaltered.

To show how optimistic even the officials were as to the peaceful conditions of the Indians we have only to consider the report from the office of Indian Affairs to the Secretary of War, following his request for suggestions for improvement in the service. "Nothing suggests itself to me in the way of improvement in the administration of the Indian Department as it is at present constituted."<sup>2</sup>

In all, Monroe negotiated forty treaties with the Indians, equivalent in number to about all the other treaties made from 1789 to his time: some of these were with tribes with whom treaties had not been negotiated before, although the majority of them were repetitive. The first belonged<sup>3</sup> to the group negotiated by Madison but concluded by Monroe.

1. Manypenny 106

2. Senate Document 19th Congress 1st Session Document

3. With the Menominees at St. Louis proclaimed Dec. 26, 1817

With the Otos proclaimed Dec. 26, 1817

With the Poncas proclaimed Dec. 26, 1817

With the Cherokees at the Cherokees agency proclaimed

Dec. 26, 1817

With the Wyandots at the Miami proclaimed Jan. 4, 1818

Followed by a supplementary treaty of Jan. 4, 1818

and by one of Jan. 7, 1818





The famous Cass Treaty was the first of these. It was due to the efforts of Governor Cass that there was less trouble in the North than in the South under removal. In the letter received by Cass March 1817, the War Department proposed that he should negotiate with the Indians on the basis that each head of a family who wished to remain within the limits ceded by the tribe, should have a life estate of a certain number of acres reserved to him which should be inherited by his children, reserving for the widows, their third, if there were any. The others were to have land allotted them west of the Mississippi.<sup>1</sup> As a result of his broad interpreting of directions, many Indians received grants in fee simple, but the Senate refused to agree to so radical a change in Indian land tenure and ordered new negotiations.

It may be noted that no arrangements were made for immediate removal but steps were taken which would lead to it. The Wyandots and their allied tribes the Senecas, Delawares, Shawnees, Potawatamies, Ottawas and Chippewas all made cessions of land to the United States in return for which they were to receive further annuities.<sup>2</sup> They requested that payments made to them according to these treaties and that of Greenville should be made in specie.<sup>3</sup>

1. Abel Indian Consolidation 288
2. Kappler II 145
3. Ibid 146 Article 4





Very soon they had learned the value of the dollar!

There was also grants made in fee simple to the chiefs of the above tribes, such grants to be free from taxa-

tion,<sup>1</sup> with the exception that the Ottawas were to have<sup>2</sup> use of a reservation which had not been granted to them.

Further grants were made to certain individuals connected

with the Indians by blood or adoption,<sup>3</sup> among whom were many women. In some cases, their white father or mother

had been taken prisoners by the Indians and had become a member of the tribe. These Indians also agreed that the

above land grants to individuals should be considered

only in the light of reservations for the Indians, to

be regranted by them only with the permission of the

President. In the same month, the Wyandots ceded the

land reserved for them by the Act of February 28, 1809

which reserved these lands to them for fifty years. All

too soon the United States Government had changed its

- Kappler*  
1. Ibid 150 Article 15  
2. Ibid 149 Article 6  
3. Ibid 149 Article 8





This cession in terms includes the territory East of a line drawn from the sources of Kansas river southward through the Rock Saline. The sources of Kansas were at that time very imperfectly known, and S. of the Arkansas river the domain of the U.S. did not extend W. of 100° W. longitude. The Western limit of the Osage country N. of the Arkansas is made to correspond on the map of the eastern limit of the Cheyenne and the Apache as established by the treaty of Fort Laramie in 1851. S. of the U.S. authorities the supposed 100° of West longitude, as was subsequently determined by the U.S. authorities, distance to the eastward of the Western Osage limits. According to the map and field notes of the survey of J.C. McCoy, the deposit of Rock salt, known as Rock Saline, was on the headwaters of Salt Creek, in what is now T. 12 N., R. 12 W., near the North Fork of Canadian River.

1825-

This cession in terms extends to the source of the Canadian river. The actual source of that river was at that date unknown. The territory of the U.S. did not at this period extend W. of 100° W. longitude in this quarter. This cession was in consequence limited in this direction to that meridian. The line of this direction "due S.W." from the Arkansas reservation "due S.W." from Salt Saline junction of post when surveyed struck Saline claimed that with the Washita. The Quapaw claimed E. of the right their territory extended E. of the Mississippi, and the U.S. although not recognizing the validity of such a claim, accepted from them a relinquishment of such supposed right in order to avoid controversy. 1818

Land ceded to the U.S. by the Osage in 1808

Adapted and compiled from Coyce's Land Cessions

INDIAN TERRITORY and OKLAHOMA 1.





mind and broken its promise. <sup>1</sup>

1. With the Creeks proclaimed March 28, 1818
- Kappler II 162-63 United States Statutes at Large 7-171
- With the Croud Pawnees proclaimed January 7, 1819
- Kappler II 156 United States Statutes at Large 7-172
- With the Noisy Pawnees proclaimed January 7, 1819
- Kappler II 157 United States Statutes at Large 7-173
- With the Pawnee Republic proclaimed January 7, 1819
- Kappler II 158 United States Statutes at Large 7-174
- With the Pawnee Marhars proclaimed January 5, 1819
- Kappler II 159 United States Statutes at Large 7-175
- With the Ivapaws proclaimed January 5, 1819
- Kappler II 160 United States Statutes at Large 7-176
- With the Peorias proclaimed January 5, 1819
- Kappler II 165-166 United States Statutes at Large 7-181
- With the Osages proclaimed January 5, 1819
- Kappler II 165 United States Statutes at Large 7-183
- With the Potawatamies proclaimed January 5, 1819
- Kappler II 168-169 United States Statutes at Large 7-185
- With the Weas proclaimed January 7, 1819
- Kappler II 170-171 United States Statutes at Large 7-186
- With the Delawares proclaimed January 15, 1819
- Kappler II 171-174 United States Statutes at Large 7-188
- With the Miamis proclaimed January 15, 1819
- Kappler II 174 United States Statutes at Large 7-189
- With the Chickasaws proclaimed January 15, 1819
- Kappler II 175 United States Statutes at Large 7-190
- With the Cherokees proclaimed March 10, 1819
- Kappler II 177 United States Statutes at Large 7-195
- With the Kickapoos proclaimed January 13, 1820
- Kappler II 184 United States Statutes at Large 7-200
- With the Kickapoos proclaimed May 10, 1820
- Kappler II 185 United States Statutes at Large 7-202
- With the Chippewas proclaimed March 25, 1820
- Kappler II 185-187 United States Statutes at Large 7-203
- With the Chippewas proclaimed March 2, 1821
- Kappler II 188-189 United States Statutes at Large 7-206
- With the Chippewas and Ottawas proclaimed March 8, 1821
- Kappler II 189-190 United States Statutes at Large 7-207
- With the Kickapoos proclaimed January 13, 1821
- Kappler II 190 United States Statutes at Large 7-208
- With the Weas proclaimed January 8, 1821
- Kappler II 191 United States Statutes at Large 7-209
- With the Kickapoos of the V. proclaimed January 8, 1821
- Kappler II 191 United States Statutes at Large 7-210
- With the Choctaws proclaimed January 8, 1821
- Kappler II 192 United States Statutes at Large 7-210





Footnote 1 of page 185 (continued)

With the Creeks	proclaimed March 2, 1821
Kappler II 195-197	United States Statutes at Large 7-215
With the Creeks	proclaimed March 2, 1821
Kappler II 198	United States Statutes at Large 7-217
With the Ottawas	proclaimed March 25, 1822
Kappler II 198-201	United States Statutes at Large 7-218
With the Sauks and Foxes	proclaimed February 18, 1823
Kappler II 202-203	United States Statutes at Large 7-223
With the Osages	proclaimed February 13, 1823
Kappler II 201-202	United States Statutes at Large 7-222
With the Florida Tribes	proclaimed January 2, 1824
Kappler II 203-207	United States Statutes at Large 7-224
With the Sauks and Foxes	proclaimed January 18, 1825
Kappler II 204	
With the Iowas	proclaimed January 18, 1825
Kappler II 207-208	
With the Iwapaws	proclaimed February 19, 1825
Kappler II 210-211	United States Statutes at Large 7-231
With the Choctaws	proclaimed February 19, 1825
Kappler II 211-214	United States Statutes at Large 7-234
With the Creeks	proclaimed March 7, 1825
Kappler II 214	United States Statutes at Large 7-235





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All the other treaties concluded by Monroe contained cessions of land clauses in practically all of which there was a direct statement relative to removal, or transfers of land by the Indians to the United States<sup>1</sup> or vice versa which was practically an equivalent.

We note that there were certain tribes, the Cherokees, the Kickapoos, the Creeks, for instance, with whom the United States made several treaties, each treaty taking more and more land from the tribes as it was demanded by the white settlers and the states within whose limits they lived. In order to satisfy some of the Indians, provision was made for those who remained behind on the basis of a reservation of 640 acres for the head of the family to be held as a United States citizen would hold<sup>2</sup> the same.

The Monroe treaties logically divide themselves into two parts, separated by acts to enforce the same. In the

1. Article I. (Treaty with Delawares proclaimed January 15, 1819)  
"The Delaware nation of Indians cede to the United States all their claim to land in the state of Indiana"  
Article II." In consideration of the aforesaid cession, the United States agree to provide for the Delawares a country to reside in, upon the west side of the Mississippi, and to guaranty to them the peaceable possession of the same." Kappler II 170
2. Kappler II 178 Cherokees March 10, 1819. Article III  
"The reservations are made on the condition that those for whom they are intended shall notify in writing to the agent of the Cherokee nation, within 6 months after the ratification of this treaty, that it is their intention to continue to reside permanently on the land reserved."





first group we find some significant facts. Certain tribes received increased money payments; the Creeks by the Treaty of March 28, 1818 receiving a \$20,000 payment in addition to \$10,000 yearly for ten years<sup>1</sup> thereafter; in other cases, the perpetual annuity<sup>u</sup> was increased. The largest payment was that made to the Chickasaws by the Treaty of January 7, 1819 by which they were to receive \$20,000 per year in perpetuity for their cession in Tennessee, such payment to be in<sup>2</sup> money or goods, the usual method of procedure. To the Delawares by the Treaty of St. Mary's January 15, 1819, the Government agreed to pay \$4,000 yearly in silver; and to the Potawatamies \$25,000 in like manner, in silver, one half to be paid at Chicago, the other at<sup>3</sup> Detroit. By the treaty of January 7, 1819 with the Weas, the perpetual annuity of \$1150 was increased by

1. Kappler I 156-157
2. Kappler II 175 "In consideration of the relinquishment of claim and cession of lands, and to perpetuate the happiness of the Chickasaw nation of Indians, the commissioners of the United States before named, agree to allow the said nation the sum of \$20,000 per annum for 15 successive years to be paid annually."
3. Kappler II 168-169 Article III "The United States agree to pay to the Potawatamies a perpetual annuity of \$2500 in silver, one half of which shall be paid at Detroit, the other half at Chicago; and all annuities which, by any former treaty, the United States have agreed to pay to the Potawatamies shall be hereafter in silver."





<sup>1</sup>  
\$1850 per year. For this sum, however, the tribe  
ceded all the lands still held by them within the  
states of Indian, Ohio, and Illinois.<sup>2</sup> From these  
examples, it may be seen that the cost of agreements  
or disagreements with the Indians was mounting,  
accounting for the sum total of expense mentioned in  
Section I of this thesis.

In this first group of treaties we also notice  
certain unique points which, however, are more common  
in subsequent treaties. In the treaty of Washington  
with the Cherokees proclaimed March 10, 1819,<sup>3</sup> we find  
the United States definitely assuming direction of Indian  
education; the method of procedure in acquiring funds to  
carry out the same becoming the fixed policy of later  
times.<sup>4</sup> Many of the other special points are identified

1. Kappler II 170 Article 5 "In consideration of the  
cession made in the foregoing article of this treaty,  
the United States agree to pay to the said Wea tribe  
of Indians, \$1850 annually in addition to the sum of  
\$1150 (the amount of their former annuity) making  
a sum total of \$3000; to be paid in silver, by the  
United States; annually to the said tribe....."
2. Kappler II 170-171
3. United States Statutes at Large 7-195 Compilation 50-52
4. Article IV "The United States stipulate that the  
reservations, and the tract reserved for a school, in  
the first article of this treaty shall be surveyed and  
sold in the same manner and on the same terms, with  
the public land of the United States and the proceeds  
invested under the direction of the President of the  
United States in the stock of the United States, or  
such other stock as he may deem most advantageous to  
the Cherokee nation. The interest or dividend on such  
stock shall be applied, under his direction in the  
manner which he shall judge best calculated to diffuse  
the benefits of education among the Cherokee nation  
on this side of the Mississippi." Kappler II 178





with the particular interests of a group. For instance, in the Chickasaw Treaty of January 7, 1819, the Indians reserved the salt lick on the land.<sup>1</sup> In this same treaty, a sum of money was paid to John Lansa, a half-breed, to reimburse him for a saddle he lost while serving the United States,<sup>2</sup> and to Major James Colbert, another half-breed, a sum of money equivalent to what was taken from his pocket while attending a performance at a theatre in Baltimore June 1816.<sup>3</sup> The Indians were certainly learning to "haggle" over a bargain and to use the advantage of their white blood for their own personal again.

To provide for the carrying out of the above treaties, Congress passed a series of laws relative to Indian questions. The act of February 20, 1819 gave power to the President to purchase land from the Creek chiefs who were willing to sell the grants they had received by the act of March 3, 1817.<sup>4</sup> All land acquired in this manner was to be offered for sale in the usual way with regard to public land sales beginning with a proclamation by the President.<sup>5</sup> On February 24, 1819, a supplementary act was passed styled "an

1. Kappler II 175
2. Ibid 175
3. Ibid 175
4. Section 1 Laws Relative to Indians 51
5. Ibid 51





act to provide for the prompt settlement of public  
accounts.<sup>1</sup> This act was just what its name implied,  
making provision for auditing and checking of all  
moneys expended or received, in any way connected  
with Indian affairs. On March 3, 1819, came "An act  
making provision for the civilization of the Indian  
tribes adjoining the frontier settlements."<sup>2</sup> The  
President was authorized to employ capable persons to  
instruct these Indians in agriculture, and their  
children "in reading, writing, and arithmetic, the pur-  
pose being to provide " against the further decline and  
final extinction of the Indian tribes adjoining the  
frontier settlements of the United States, and for intro-  
ducing among them the habits and arts of civilization."  
An allowance was made of \$10,000 per year for such  
expenses, report being made yearly to Congress by the  
President as to expenditures of the fund.

On March 31, 1819, the President approved an act  
making appropriations to carry into effect the treaties  
referred to above.<sup>3</sup> The agent to "live among or near

1. <sup>^</sup>Ibid 51

2. Laws Relative to Indians 52

3. Ibid 53





the Wyandots and to be also the agent of the Senecas, Delawares, Shawnees, Potawatamies, Ottawas, and Chippewas" was to receive the munificent sum of \$1200 a year as full compensation for his services!

The treaties of the later groups, except those with the Creeks and the Florida tribes, were all made with the Indians of the far West; all providing for land cessions and in many cases for removal beyond the Mississippi.<sup>1</sup> In practically all cases of removal, there were a few families or individuals who remained behind even after the last cession had been made by the tribe, many eventually becoming United States citizens. The Kickapoos by agreement of January 13, 1821 were to have a tract of land in Missouri in return for their cession as well as a bonus of \$3,000 in merchandise,<sup>2</sup> also an annuity of \$2,000 for fifteen years.

1. May 10, 1821. The Kickapoos ceded all land on the south east side of the Wabash and on the left of the Illinois and Mississippi Rivers United States Statutes at Large 200  
May 25, 1820. The Chippewas at Sagenaw ceded lands in Michigan to the Canadian line with reservations to certain groups. Kappler II 186 United States Statutes 203  
January 8, 1821. The Choctaws ceded land on East side of the Mississippi between the Arkansas and Red Rivers. Kappler II 192 United States Statutes at Large 7-210  
March 25, 1822. The Ottawas ceded land on south bank of St. Joseph's River of Lake Michigan. Kappler II 198 United States Statutes at Large 7-218  
January 18, 1825. The Sauks and Foxes ceded all their lands within the state of Missouri. Kappler II 204. Article VI.
2. United States Statutes at Large 7-200 Kappler II 182 Article VI boundaries





The Qapaws agreed on February 19, 1825 to move to the land of the Caddo Indians Arkansas and form part of that tribe thus losing their own identity.<sup>1</sup>

The government made various promises relative to assistance to be given to the various tribes removing. The Kickapoos on May 10, 1821 were promised two boats and a guide to aid them in their removal to Missouri.<sup>2</sup> Their relatives, the Kickapoos of the Vermilion, were paid their annuity in advance to help them in their removal.<sup>3</sup> The government aid to the Choctaws by the

1. Ibid 7-232 Ibid 210-211 Article IV "The Qapaw tribe of Indians will hereafter be concentrated and confined to the district of country inhabited by the Caddo Indians, and form a part of the same tribe. The said nations are to commence removing to the district allotted them, before the twentieth day of January, one thousand one hundred and twenty-six.
2. United States Statutes at Large 7-200 Kappler II 183 Article VIII "For the purpose of facilitating the removal of the said tribe to the tract of land hereby ceded to them, the United States will furnish them with two boats, well armed, to transport their property from any point they may designate on the Illinois river, and some judicious citizen shall be selected to accompany them in their passage through the white settlements to their intended residence.
3. United States Statutes at Large 7-200 Kappler II 191 Article II "As the said tribe are now about leaving their settlements on the Wabash and have desired some assistance to enable them to remove the said Benjamin Parke on behalf of the United States has paid and advanced to the said tribe \$2000....;which said sum of \$2000 is to be considered as an equivalent in full for the annuity due the said tribe."





Treaty of January 8, 1821 was probably the most unusual of the kind. Each warrior was to be presented a blanket, kettle, rifle, bullet mould, nippers, and sufficient ammunition for hunting and defence for one year.<sup>1</sup> He was also to receive enough corn to support himself and his family for one year, including the time consumed in travelling to the new cession. We find a similar condition in the case of the Florida tribes, the United States allowing rations of corn meal and salt for twelve months' needs, as well as a sum of \$2000 to help in transportation west.<sup>2</sup> In this group of treaties there are also several reservations relative to hunting and fishing rights to be retained by the Indians. For example, on March 25, 1820 at Saginaw, the Chippewas reserved the right to hunt and make sugar on the ceded land;<sup>3</sup> in the treaty of March 2, 1821, they reserved the perpetual right to the fishing at St. Mary's Falls, near Sault de St. Marie.<sup>4</sup>

As in former instances, we again note treaty provisions for payments in agricultural implements, domestic animals, provisions, and merchandise,<sup>5</sup> as well as provi-

1. Kappler II 193 Article V
2. Ibid 200 Article V
3. United States Statutes at Large 7-203 Kappler II 186
4. Ibid 7-201 Ibid 189
5. With Sauks and Foxes January 18, 1825 Kappler II 204 Article VI





sions for blacksmiths and teachers of agriculture.<sup>1</sup>  
The right was also acquired by the United States to  
build roads through any part of the Indian reserva-  
tions, making it impossible for the Indians to keep<sup>2</sup>  
the whites out and avoid trouble with them. The  
increased money payments, still went on, notably in  
the case of the Creeks at Indian Springs of March 2;  
1821. Their land was evidently much desired because  
they were paid \$10,000 for it with an additional  
amount of \$40,000 when the treaty was ratified, also  
\$5,000 for each of the next two years, \$16,000 per  
year for the five years following that, and \$10,000  
annually for six years thereafter, in money or goods.  
The United States in addition to the above was to  
assume all debts owed by the Creeks to Georgia for

1. Ottawas March 25, 1822 United States Statutes at  
Large 218 Kappler II 200  
Article IV "In consideration of the cession afore-  
said, the United States engage to pay to the  
Ottawa nation.....  
for the term of ten years the sum of \$1500 to be  
expended....in the support of a Blacksmith, and a  
teacher, and of a person to instruct the Ottawas  
in agriculture and in the purchase of cattle and  
farming utensils."
2. Chippewas March 25, 1825, United States Statutes  
at Large 7-203 Kappler 186. The United States was  
to have free passage to the Mississippi; Article VII  
Kappler II 186 "The United States reserve to the  
proper authority to make roads through any part of  
the land reserved by this treaty."





damages to her citizens, such payments to be made in five instalments if they did not amount to more than <sup>1</sup> \$250,000.

The unique reservations were of a great variety. We find for example that the Ottawas and Chippewas in 1821 ceded St. Mary's Islands in Lake Huron on which <sup>2</sup> there was plaster of Paris. The Indian lands were certainly being combed by the settlers and commercial despoilers! Article XIII of the Choctaw Treaty at Doak's Stand of January 8, 1821 contained a regulation to the effect that the tribe must provide for the "deaf, dumb, blind, and distressed" from their annuity before <sup>3</sup> payments were made to the other tribe members. In Article XIII, we also find provision made for the raising of an Indian troop of light horse to preserve order which <sup>4</sup> seems to be the first of its kind. On January 2, 1821 the Commissioners of Georgia released the Creeks from all claims for damage prior to 1802, which claims were trans-<sup>5</sup>ferred to the United States. In Article VII of the treaty

1. United States Statutes at Large 7-215 Kappler II 195-197
2. Ibid 7-207-Kappler II 190
3. Ibid 7-210-Ibid II 193 Article 8
4. Ibid 7-210-Ibid II 193-194
5. United States Statutes at Large 7-210 Kappler II 193-194 "to enable the Mayors, Chiefs, and Head Men of the Choctaw nation to raise and organize a corps of Light-Horse, consisting of 10 in each District so that good order may be maintained and that all men, both white and red, may be compelled to pay their just debts, it is stipulated and agreed that the sum of \$200 shall be appropriated by the United States for each district."





with the Florida tribes of January 2, 1824, we observe the first treaty clause relative to fugitive slaves.

"The chiefs and warriors aforesaid, for themselves and tribes, stipulate to be active and vigilant in preventing the retreating to, in passing through the distant country assigned them, of any absconding slaves, or fugitives from justice; and further agrees to use all necessary exertion to apprehend and deliver the same to the agent, who shall receive order to compensate them agreeably to the trouble and the expense incurred."<sup>1</sup>

There was much discussion in Congress relative to the Indian situation at this time and on May 6, 1822 came the important "act to abolish the United States trading establishments with the Indian tribes,"<sup>2</sup> already spoken of in Section I of this thesis. Article I provided for their closing and the method to be followed by the agents in taking care of all goods remaining in them. These goods were to be placed at the disposal of the President to be used by him towards satisfying and extinguishing the Indian treaty obligations of the United States;<sup>3</sup> to be used also in paying annuities due or to become due,

1. Kappler II 204
2. Laws Relative to the Indians 54
3. Ibid 54 Section II





and also in making presents to the tribes and individuals. All surplus goods were to be sold, and the proceeds paid to the Treasurer of the United States to be used towards<sup>1</sup> paying the necessary expenses to carry the act into effect. The President was to report to the next Congress concerning the results.

On the same date, an act amending the act of March 30, 1802 entitled "an act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontier"<sup>2</sup> was passed. All traders in the Indian country were to be licensed and were to be under bonds "not exceeding \$15,000", proportioned to the capital employed. These licenses were to be issued by the superintendents of Indian Affairs and Indian agents in the territories for a seven year term, to those trading with the Indians beyond the Mississippi, and for two years to those trading with other tribes. Returns of such licenses were to be made to the Secretary of War within one year of issuance. The goods of all traders were to be searched upon information or even<sup>3</sup> suspicion that they contained "ardent spirits." If this contraband should be found, one half of the trader's goods were to be forfeited to the informer, the rest to the

1. Ibid 55 Section III

2. Laws Relative to the Indians 55

3. Ibid 56 Section 2





government and the trader's license cancelled. Few cases of forfeiture were found so there must have been few to inform, perhaps because the frontiersmen were fond of "ardent spirits" themselves. An attempt was evidently made to give the Indian a fair deal in Section IV,  
"And be it further enacted,<sup>1</sup> that in all trials about the right of property in which Indians shall be party on one side, and white persons on the other, the burden of proof shall rest upon the white persons in every case in which the Indian shall make out a title of presumption in himself for the fact of previous possession and ownership." Section VI recognizes the fact that the center of Indian population had shifted in that it gives the President the right to appoint a Superintendent of Indian Affairs at St. Louis and one for East and West Florida with a salary of \$1500 per year.<sup>2</sup>

<sup>3</sup>  
The Act of January 31, 1823 was evidently a supplement to that of the preceding year. It forbade payments for services in advance except as the President felt necessary in the case of army and navy officials stationed at a great distance. The officials were to render account quarterly if resident in the United States, twice a year

1. Ibid

2. Ibid 57 Section 6

3. Laws Relative to the Indians 57-58





if in a foreign country, and they were not to retain money in payment for salary, on danger of removal from office.

Congress passed several Indian laws in the month of May 1824. The first of May 25, 1824 provided for an Indian agent for the Osages living east of the state of Missouri<sup>1</sup> and ordered Indian agents to keep their agents near the tribes at the place where the President designated. The second of the same date,<sup>2</sup> appropriated \$10,000 for the purpose of making treaties of friendship and trade with the Indians. The Indian agents were directed to designate certain convenient and suitable places for carrying on trade which were to be the sole places for such purposes.<sup>3</sup> The superintendent of Indian Affairs at St. Louis was to perform all duties of a Governor of a territory. We naturally wonder why nothing was said about increasing his salary above the \$1500 already mentioned. A third likewise of the same date, provided for the disposition of certain tracts of land in Trescararico county, Ohio, to preemptioners if they gave notice to the agent and the money to pay for them

1. Ibid 58

2. Ibid 59

3. Ibid 59 Section 4





before the land was declared open to settlers.<sup>1</sup> When the lands were put on sale, the proceeds were to be added to "the fund for raising the annuity of the Cherokees, according to the agreement of November 8, 1822.<sup>2</sup> The "Christian Indians" were to notify the President when they wished to remove from the Thames, when he was to designate not less than 20,000 acres of land as a reservation for them.<sup>3</sup> The fourth was an act to reserve land for the Wyandots in place of a reservation made to them by the Treaty of September 17, 1818. Hardly had the land been reserved for them than<sup>4</sup> they were forced to move on.

On March 7, 1825 the Creeks made a treaty at Indian Springs<sup>5</sup> which caused so much trouble to John Quincy Adams and around which the Georgia controversy waxed warm as we shall see. By this treaty, the Creeks ceded all their lands in Georgia in exchange for lands on the Arkansas River near the Canadian Fork. Some Creeks remained and some emigrated. Groups were sent out to look over the land and if they found it was not suitable for the Creeks, a new cession was to be made of any land in the vicinity

1. Ibid

2. Ibid 62 Section 7

3. Laws Relative to Indians 63 Section 8

4. This was in the Delaware land district in place of the Sandusky River lots.

5. Kappler II 214

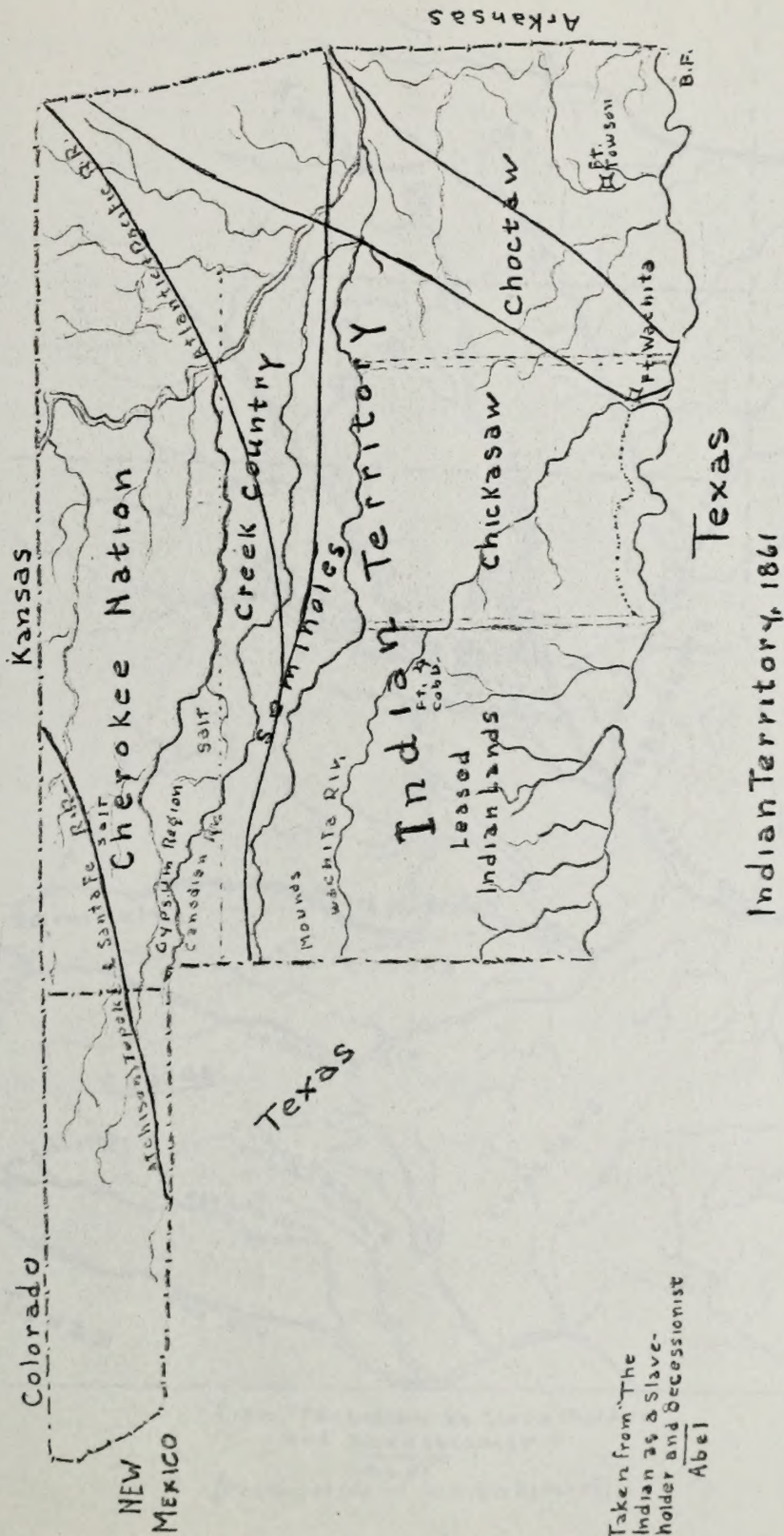








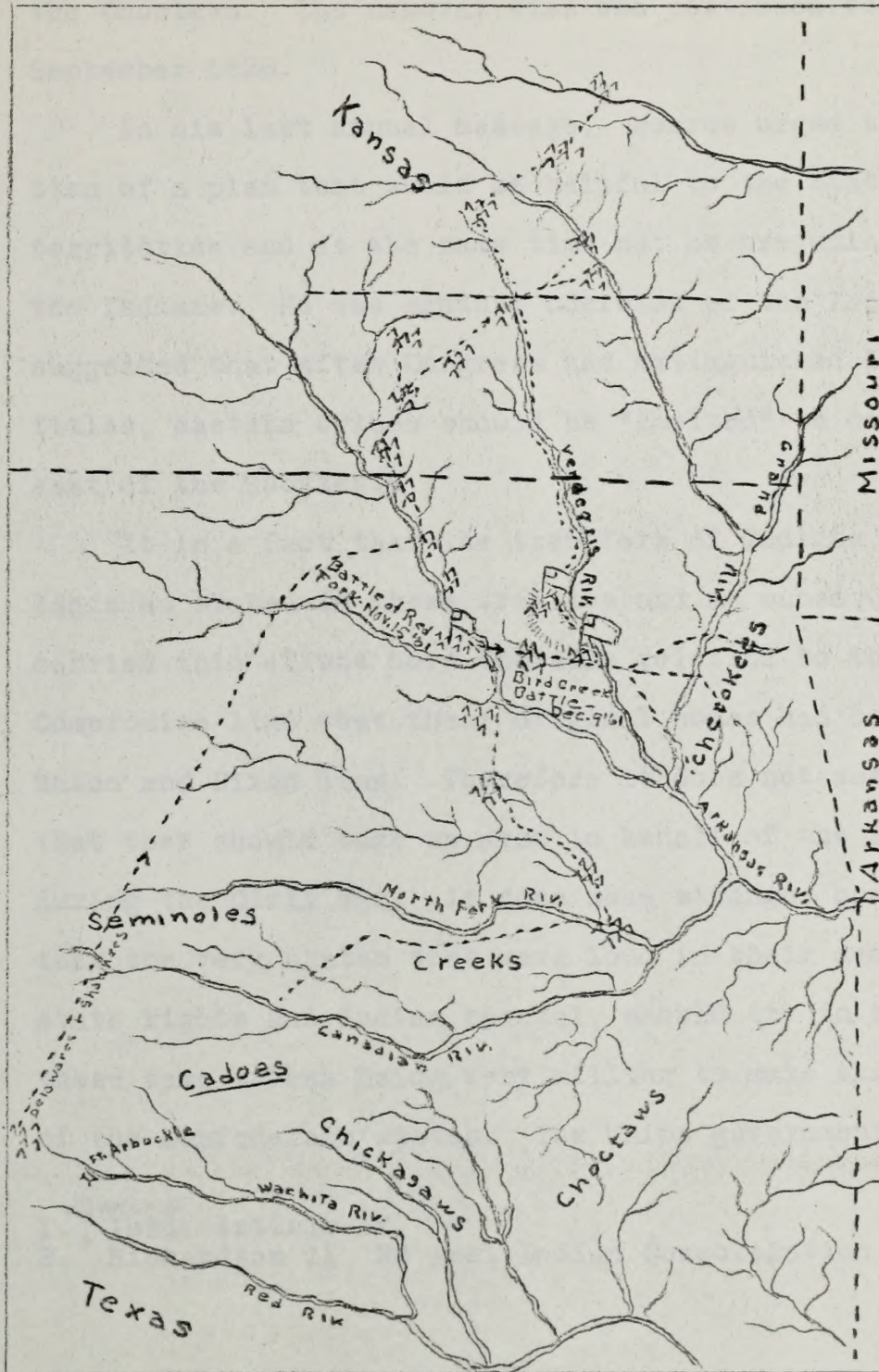




Taken from "The  
Indian as a Slave-  
holder and Secessionist"  
Abel







From "The Indian as Slave-holder  
and Secessionist"

Abel

[From Office of Indian Affairs]





of the Canadian Fork except that of the Cherokees and  
the Choctaws.<sup>1</sup> The removal time was postponed to  
September 1826.

<sup>2</sup>  
In his last annual message, Monroe urged the adoption of a plan that would be helpful to the states and territories and at the same time not be prejudicial to the Indians. He was against coercion of the Indians but suggested that after Congress had extinguished land titles, eastern tribes should be "invited" to occupy land east of the Rockies.

It is a fact that the transfers of Indians to new lands as stated in these treaties and as subsequently carried into effect bore the same relation to the Missouri Compromise line that their original homes had born to the Mason and Dixon line. Therefore it does not seem incongruous that they should take up arms in behalf of the South during the Civil War. It does seem strange, however, that the very states that were loud in their demands for state rights and Indian removal, should try to conciliate these same tribes being very willing to make them citizens of the Confederate states. The Union government ignored

- <sup>Kappeler II</sup>  
1. <sup>^</sup> Ibid Article IV  
2. <sup>^</sup> Richardson II 26 Abel Indian Consolidation 341





the Indians often leaving them unprovided for and then punished them severely for having favored<sup>1</sup> the south. (See map).

The day before John Quincy Adams was inaugurated, Congress passed an act giving the President power to have a road surveyed from the western frontier of Missouri to the borders of New Mexico.<sup>2</sup> Directions were given that the commissioners should obtain the consent of the Indians of the country traversed. \$18,000 was appropriated to pay for the work, and \$20,000 to get the consent of the Indians.

We might say that there were three Indian treaty principles advocated by Monroe and approved by his successors.

1. Congress must give the Executive the power to negotiate treaties which the Senate must approve.

2. Room must be found for emigrating tribes in a country already occupied by western Indians.

1. Abel Indian as Slaveholder 21 "The real location of western and southern tribes seems to have been determined with a careful regard to the relations of the Missouri Compromise and the interdicted line of 36' 30' was pretty nearly the boundary between them. That it was by accident may or may not be a subject for conjecture."

2. Laws Relative to the Indians 63





3. The eastern tribes must be persuaded to cede their<sup>1</sup> lands in exchange for western ones.

Following these ideas groups of treaties were concluded in 1825 followed by the laws of 1828 and 1830.

Almost as soon as he had taken office John Quincy Adams was forced to take an interest in the Indian question and it must be admitted that his work as an Executive in this case was only second rate.. He finally came to believe in Indian removal, not because it was the best thing to do, but because it seemed the only way out of the difficulty. His administration was attacked by his enemies, or rather Jackson's friends, on every pretext. They criticized Adams severely because he followed the practice which had grown up of negotiating treaties with the Indians without first obtaining appropriations from Congress for carrying on the<sup>2</sup> same.

Adams inherited from Monroe a chaotic condition as far as the Indian question was concerned. The states in which there were Indian reservations were continually urging that the Indian title to lands in their states be<sup>3</sup> extinguished, and the Indians removed beyond the Mississippi.

1. Paxson Indian Frontier 277
2. Abel Indian Consolidation 344
3. Ibid 370





The usual arguments for removal were based on the idea that it was expedient to move the Indians beyond the state limits in order to avoid conflicts between State and Federal authorities, that powerful independent, irresponsible groups were dangerous to the scattered white inhabitants; that this danger tended to retard the growth of newly planted settlements, preventing the cultivation of large tracts of productive land; and last-<sup>1</sup>ly, arrested general development. Georgia was especially impatient because of the Government's delay in fulfilling the Compact of 1802, which called for the removal of all Indian tribes from that state. The dissatisfaction relative to the Treaty of Indian Springs was very apparent, to say nothing of the general discontent among both the<sup>2</sup> Indians and the white settlers. In order to avoid emigration the Cherokees had organized their own government within the state of Georgia. This started the discussion of the Indian question in the state legislature from which it got into Congress, and even into the Supreme Court of the United States, when Georgia tried to annul this independent government of the Cherokees. The House

1. Otis 104

2. Abel Indian Consolidation 370





1  
Committee on Indian Affairs for 1824 reported never  
were means for the accomplishment of this object so  
judiciously devised and so faithfully applied as  
provided in the above act (Civilizing Act of March 3,  
1819) and the auxiliary acts which it has encouraged.  
It is believed to be an essential part of any plan for  
civilization, that, with the rudiments of education,  
the males should be taught the arts of husbandry, and  
the females to perform those domestic duties which  
peculiarly belong to their station in civilized life.

In his first inaugural address, Adams suggested  
that the relations between the United States and the  
Indians of the year 1825 had been interesting. He  
mentioned the Acts of Congress of May 25, 1824 and March 3,  
1825, the first for the purpose of making treaties of  
trade and friendship with the Indians beyond the Mississippi,  
and the latter for the building of a road, from the frontier  
of Missouri to Mexico. The first had been carried out  
and the latter was in the process of being carried out.  
2  
In speaking of the treaties then before the Senate he  
added, "They comprise large and valuable acquisitions of

1. McKenzie 9
2. Richards II 306





territory and they secure an adjustment of boundaries and give pledges of permanent peace between several tribes which have long been waging wars against one another." He then spoke of the Treaty of Indian Springs<sup>1</sup> and that the consent of the Senate had been obtained to it.

There are several records in his diary showing that the Indian situation was frequently a subject for discussion at Cabinet meetings during the first year of his administration. Adams records that at the meeting<sup>2</sup> of December 22, 1825 Clay expressed the opinion that it was impossible to civilize the Indians; that there never was a full blooded Indian that took to civilization. It was not in their nature. He believed that they were destined to extinction and although he would never use or countenance inhumanity towards them, he did not think them as a race worth preserving. He considered them as essentially inferior to the Anglo-Saxon races, who were now taking their place on this continent. They were not an improvable breed, and their disappearance from the human family would be no great loss to the world. In point of fact, they were rapidly disappearing, and he

1. Richardson II 306 It was not proclaimed until March 7, 1825.

2. Diary John Quincy Adams VII 90





did not believe that in fifty years from that time, there would be any left." As independent powers we negotiated with them by treaties, as proprietors we purchased of them all the land which we could prevail upon them to sell, as brethren of the human race, rude and ignorant we endeavored to bring them to the knowledge of religion and letters.<sup>1</sup> This is typical of the westerners' attitude of that time and they saw no "inhumanity" in thinking and speaking thus.

The matter for discussion had been what to do<sup>2</sup> about the Creeks. When it was desirable that they should be removed, there was no land to the west of their holdings, but the Commissioners at Black Arrow December 7, 1821 had assured the Indians that the President had much land beyond the Mississippi which he was willing to give them in exchange for their Eastern lands. In 1802, Georgia had made an agreement with the Jefferson Administration by which the United States Government agreed to extinguish the Indian title to land in that state as soon as it could possibly do so. It had been Monroe's desire at that time to satisfy Georgia's demand for its fulfillment. Four Creek chiefs

1. Abel Indian Consolidation 336-344
2. The English gave them this name because of the character of the country in which they lived.





replied to the commissioners that ruin would be the inevitable consequence of removal beyond the Mississippi.<sup>1</sup> "It is very true," they said, "that we are surrounded by white peoples, that there are encroachments made; what assurance have we that similar ones will not be made on us, should we decide it proper to accept your offer to remove beyond the Mississippi; how do we know that we would not be encroaching on the people of other nations." To which the Commissioners replied, "Brothers, we plainly see and we know it to be true from the talks of the President, the Secretary of War, the Governor of Georgia, the Georgia Delegates in Congress and the Legislature of Georgia for years past, that one or two things must be done; you must come under the laws of the whites or you must remove."<sup>2</sup>

The Commissioners then tried to influence Chief McIntosh, a half breed cousin of Governor Troup of Georgia, but Little Prince and Big Warrior were suspicious of him and he was removed as speaker for the Creek nation, whereupon he played into the hands of the commissioners. Negotiations were suspended and the Creeks were summoned to a meeting to be held at Indian

1. Bassett 681

2. Abel Indian Consolidation 337





Springs February 7, 1822.<sup>1</sup> Little Prince and Big Warrior did not attend, sending representatives to declare that the meeting was unlawful since McIntosh<sup>2</sup> did not have authority to negotiate a cession. But bribery was used by Colonel Williamson and the McIntosh Group signed a treaty February 12, after the dissenting Creeks<sup>3</sup> had left. McIntosh was subsequently killed because there was a Creek law to the effect that no land could be sold to the whites without authority given by vote of the majority of the nation. All transgressors<sup>4</sup> were to be punishable by death. Negotiations were reopened with the Creeks under the Appropriation Act of May 6, 1824. There were about fifty-six Creek towns,<sup>5</sup> partly in Georgia and partly in Alabama. Little Prince and Big Warrior were still the leaders of the Red Sticks or anti-McIntosh group. The Creek chiefs met May 25, 1824 at their capital, Tuckaubatchee, and passed a resolution to the effect that they would not sell "another foot of land" and declared the Treaty of Indian Springs illegal

- <sup>Abel</sup>  
1. Ibid 337 Turner 310  
2. Ibid 339  
3. Ibid 345  
4. Drake IV 98  
5. Abel Indian Consolidation 334





because it had been secured by fraud from a minority<sup>1</sup>  
of their people.

We are apt to overrate the power of an Indian chief and fail to realize why the tribe as a whole did not always uphold agreements made by them. Like that of the King of England, it was one of influence rather than real authority. To quote from Professor Ferrand's statement, "There is much misconception regarding Indian chieftains in general. The chief was the preeminent figure only in times of great emergency such as war and these were precisely the occasions upon which the Indian was usually<sup>2</sup> seen by the whites .....With the passing of the emergency the chief tended to lapse back to the level of the other members of the tribe....The Indian is essentially individualistic and will not brook authority where long continued custom has proven its necessity." Then too, "ownership of property depended on clan organization. Where clans existed land was the common property of that group, where clans were absent, it belonged to the band<sup>3</sup> or tribe." Added to this we have the testimony of Fynn;<sup>3</sup> "As a warrior he was singularly misconceived...There was

1. Abel Indian Consolidation 335
2. Ferrand 100
3. Fynn 234





TENNESSEE

North Carolina

South Carolina

ALABAMA

Tract known as the Cherokee Neutral Land. It was ceded in trust to the U.S. by treaty of July 19, 1866 with the condition that it should be sold for the benefit of the Cherokee.

1834

three tracts of land

This cession consists of

By treaty of Feb. 14, 1835, a tract of country was assigned to the Creeks in lieu of the one here in promised.

The Creek Nation cede to the U.S. the land East of the following boundaries:-

The Creek nation cede to the U.S.

The general boundaries of the foregoing cession also include the tract reserved at Oakchonoogan creek by treaty of 1805

from the E. bank of Flint river to the Chatahochee river, up the E. bank of said river to shallow ford, the present day boundaries between the States of Georgia and the Creek Nation.

1821

This cession forms two detached tracts of land

The boundaries of these tracts have not as yet been ascertained

1791

The Creeks ceded to the U.S. all right to a certain tract between the Oconee and Ocumulgee Rivers

1855

Land ceded by the Creeks to the U.S. by treaty on Nov. 14, 1815

By act of Congress approved March 3, 1817, a method was provided for the location of these reserves. By act of Feb. 20, 1819, the President was authorized to purchase these reserves whenever these reserves desired to sell.

This cession forms two detached tracts of land

statenville

Georgia

St Mary's River





no formal bond of loyalty. His inclination to serve was his only bond....The chief was chosen for the single expedition at hand, and when the occasion calling for his service had passed....he gravitated to become simply the companion and equal of those whom he had once led.<sup>1</sup>"

When no result had been obtained from the reopening of negotiations with the Creeks, Governor Troup declared in his Proclamation of March 28, 1825 that he would take immediate possession of their lands.<sup>2</sup> Article 8 of the Treaty which Troup was calling upon all good citizens to enforce read as follows, "Whereas the said emigrating party cannot prepare for immediate removal, the United States stipulate, for their protection against encroachments, hostilities and imposition of the whites and of

<sup>Fy</sup>  
1. <sup>A</sup> Ibid

2. "I have thought proper to issue this, my proclamation, warning all persons, citizens of Georgia, or others, against trespassing or intruding upon lands occupied by the Indians within the limits of this State, either for the purpose of settlement or otherwise as every such act will be in direct violation of the provisions of the treaty, aforesaid, and will expose the aggressors to the most certain and summary punishment by the authorities of the State, and the United States. All good citizens pursuing the dictates of good faith, will unite in enforcing the obligations of the treaty and the supreme law."

Drake IV 105

Harden's Troup 273 Abel Indian Consolidation 346-348





all others; but the period of removal shall not extend beyond the first of September in the year eighteen hundred and twenty six.<sup>1</sup> From this one may be seen that Governor Troup was a little premature. Nevertheless Georgia started to make surveys claiming "that the Treaty of Indian Springs became operative immediately upon its ratifications."<sup>2</sup> Many students might consider the surveying of such a line an interstate question and so a national, not a state right. Troup felt that no prohibition would be made if the Indians consented. He, therefore, got in touch with McIntosh and when the latter had been killed, as has already been mentioned, he accused United States Agent Crowell of conniving at his death. Troup was backed by the Legislature of Georgia. Major Andrews, appointed by the President to investigate, told Crowell that he<sup>3</sup> was an innocent victim but nevertheless removed him. Then Troup ordered Andrews in June 1825, to end all relations with Georgia. Congress had appropriated \$200,000 to carry on negotiations and removal and Crowell wrote to the War Department telling the President that he thought these funds should be distributed by the chiefs in the same manner that the annuities were.

1. United State Statutes at Large II 238
2. Turner 312
3. Troup 273 Indian Consolidation 348





Adams's diary entries of May 15, 1825 show<sup>1</sup> that the Cabinet had met to discuss the Creek question. Adams's aim was to prevent the Georgian government from making the survey. Adams warned Troup that he should employ if necessary all the means under his control to maintain the faith of the nation by carrying the treaty into effect.<sup>2</sup> Governor Troup went on with the surveying and the Legislature of Georgia by Act of June 9, 1825, ordered it to go on. Gaines, the general in command of United States forces reported that 49% of the Creeks were vs. the Treaty of Indian Springs and said he would refer the matter to Congress.<sup>3</sup> When he was reelected Troup felt that the people of Georgia had agreed that he was right and so continued his policy.

A delegation from the Upper Creeks<sup>4</sup> were sent to Washington to see the President.<sup>5</sup> They said they had come on the advice of General Gaines. They declared they had not said at Broken Arrow how much land they would cede. Adams suggested laying the whole matter before Congress,

1. Indian Consolidation 349
2. Turner 312
3. Abel Indian Consolidation 349 American State Papers  
Indian Affairs II 341
4. McIntosh led the Lower Creeks Abel Indian Consolidation 350
5. Diary John Quincy Adams November 26, 1825.





instead of going ahead and trying to negotiate a new treaty.<sup>1</sup> Calhoun had drafted a bill relative to removal but independent action in the House was delayed by the fact that Forsyth of Georgia was determined not to let the plan of removing the Indians in general, retard the carrying out of obligations due to Georgia in particular.<sup>2</sup>

Negotiations which resulted in the Treaty of Washington were continued.<sup>3</sup> Adams had now come to feel that removal was the best way out of the difficulty. During this time, both Creek factions were represented in Washington, the McIntosh group asserting their rights under the Treaty of Indian Springs.<sup>4</sup> The latter group consented to the new treaty when certain provisions had been made at Adams's suggestion. Their consent formed an independent declaration apart from the treaty itself.

On January 31, 1826, Adams sent this treaty to the Senate with a message relative to the same. He suggested that this was the substitute for the Treaty of Indian Springs about which he had spoken in his past message, saying that it had been ratified under a firm belief,

1. Ibid December 1, 1825
2. Abel Indian Consolidation 346
3. United States Statutes at Large 7-286 Turner 312
4. John Quincy Adams's Diary January 18, 1826 Abel Indian Consolidation 359





founded on the journal of the Commissioners of the United States and on the express statements in the letter of one of them of the 16th of February to the then Secretary of War, that it had been concluded with a large majority of the chiefs of the Creek Nation and with a reasonable prospect of immediate acquiescence<sup>1</sup> by the remainder. The two principal chiefs who had signed it were killed by the wish of the majority of the nation and their families fled from the territories they had been trying to cede to the United States. "Yet in this fugitive condition," as Adams pointed out, "and while subsisting on the bounty of the United States, they have been found advancing pretensions to receive exclusively to themselves the whole of the sums stipulated by the commissioners of the United States in payment for all the land of the Creek Nation which were ceded by the terms of the treaty. And they have claimed the stipulation of the eighth article as an engagement by which the United States were bound to become the instruments of their vengeance and to inflict upon the majority of the Creek Nation the punishment of Indian retribution to gratify the vindictive fury of an impotent and helpless minority of their own tribe."<sup>2</sup>

1. Richardson II 324

2. Ibid





Adams went on to say that "like other treaties, its fulfillment depends upon the will not of one but of both parties to it....By the refusal of the Creek nation to perform their part of the treaty the United States are absolved from all its engagements on their part, and the alternative left them is, either to resort to measures of war to secure by force the advantages stipulated to them in the treaty or to attempt<sup>1</sup> the adjustment of the interests by a new compact. After exhausting every effort in our power to obtain acquiescence of the Creek Nation to the treaty of the 12th of February I entertained for some time the hope that their assent might at least have been given to a new treaty by which all their lands in the state of Georgia should have been ceded. This also has proved impracticable, and although the excepted portion is of comparatively small amounts and importance, I have assented to its exception so far as to place it before the Senate only from a conviction that between it and a resort to the forcible expulsion of the Creeks from their habitations and lands within the state of Georgia there was no<sup>2</sup> middle term." He then spoke of the deportation of Creeks concluding the treaty, as the principal chiefs of the

1. ↑Ibid 325

2. Richardson II 325





nation "able not only to negotiate but to carry into effect the stipulations to which they had agreed."<sup>1</sup> He also mentioned the fact that the minority was represented by a deputation at Washington but he felt that they had no claim upon the United States "other than of impartial and vigorous justice." Adams concluded with "in the adjustment of the terms of the present treaty, I have been particularly anxious to dispense a measure of great liberality to both parties of the Creek Nation, rather than to extort from them a bargain of which the advantages on our part could only be purchased by hardship on them."<sup>2</sup>

On March 17, 1826, the Senate Committee on Indian Affairs reported that they did not advise or consent to it, but they reported formally upon the treaty when Adams sent supplementary documents providing as they all thought at the time, for the cession of the remaining Creek lands between the western line of Georgia and the Chatahouchee.<sup>3</sup> \$60,000 was appropriated to aid emigrating Creeks, evidently to satisfy the McIntosh party who promised to get most of their tribe to emigrate.<sup>4</sup>

1. Those who had tried to negotiate the Treaty of Indian Springs for the whole nation while only representing 400 of it
2. Richardson II 326
3. Abel Indian Consolidation 352
4. United States Statutes at Large II 187





Troup denied the right of the United States to invalidate the Treaty of Indian Springs and declared<sup>1</sup> invalid any document passed to supersede it. He said he would proceed to occupy the Creek lands<sup>2</sup> September 2, 1826. But the Treaty of Washington guaranteed protection to the Creeks to January 1, 1837. Agent Crowell protested to Barbour, Secretary of War, against Georgia's continued surveying of Creek land. Barbour in writing to Troup said,<sup>3</sup> "It is expected that Georgia will desist from any further prosecution of the survey until it is authorized by the treaty" Troup did not reply for three weeks declaring then that the alarm had come from intermeddlers; that the surveyors<sup>4</sup> had completed the work and there had been no interrupting.

Troup then pointed out to the Georgia legislature that the Treaty of Washington did not give all the Creek lands within her limits to Georgia, and that because the United States had made a mistake, he would be governed by<sup>5</sup> his original intention. The Legislature replied that if the Treaty of Washington had divested Georgia of any<sup>6</sup> rights acquired in 1825, it was illegal and unconstitutional.

1. Abel Indian Consolidation 353
2. American State Papers Indian Affairs II 744
3. Abel Indian Consolidation 353
4. American State Papers Indian Affairs II 744
5. Ibid 744
6. Ibid 749





So Troup had Alabama beyond the western limit of the lost Creek cession surveyed. Here we should note that it was not customary to run state boundaries through country where the Indian title had not been extinguished.<sup>1</sup> This act of Troup implied the surrender of all Creek lands in Georgia which was entirely vs. the Treaty of Washington.<sup>2</sup> Word came to Washington that the Indians had stopped the surveyors and Georgia troops were threatening them.

Adams reported the story of the Cabinet meeting of January 27, 1827.<sup>3</sup> The Cabinet group consulted the Act of Congress of 1802 legalizing the compact and found that Section 5 forbade surveying; Section 16 authorized the use of the military forces of the United States to apprehend any person trespassing upon the Indian lands, and to convey him to the civil authority in one of the three districts next adjoining; Section 17 authorized the seizure and trial of trespassers found within any judicial district of the United States. It was proposed to order troops to the scene to arrest the surveyors and bring them to trial by the authority of Section 16. Of this Adams said, "I have no doubt of the right but much of the expediency of so doing." Clay urged the necessity of protecting the rights

1. Turner 310
2. Abel Indian Consolidation 354
3. Diary John Quincy Adams





of the Indians by force, but thought the civil process would be adequate to the purpose. The Georgia surveyors acted by authority of the state; to send troops against them would end in violence. The act of 1802 was not framed to fit this case, and before using arms he advised referring the subject to Congress. Barbour proposed sending a confidential agent to warn Georgia<sup>1</sup> against proceeding.

Governor Troup defied the Federal Government to do its worst. Adams then sent a message on February 5, 1827 with documents recording the whole story saying that the Creeks had invoked protection of the United States in defence of the rights of territory secured to them by the Treaty of Washington.<sup>2</sup> Surveyors from Georgia had been employed in surveying the Indian lands, one or more of whom had been arrested by the Indians. Their forbearance and reliance upon the good faith of the United States would, it was hoped, avert scenes of violence and blood which there is otherwise too much cause to apprehend would result from these proceedings.

Adams then made reference to a series of laws which he felt applied to the situation.

<sup>3</sup>  
1. Act of March 31, 1802 Section 5 "it is provided that

1. American State Papers Indian Affairs II 864 Abel  
Indian Consolidation 353
2. Richardson II 370
3. Ibid 371





if any citizen of or other resident of the United States shall make a settlement on any lands belonging to or secured or granted by treaty with the United States to any Indian tribe, or shall survey or attempt to survey such lands or designate any of the boundaries by marking trees or otherwise, such offender shall forfeit a sum not exceeding \$1,000 and suffer imprisonment not exceeding twelve months."

Section 16 declared "it lawful to apprehend every person found in the Indian country over and beyond the boundary line between the United States and the Indian tribes in violation of any of the provisions or regulations of the act, and immediately to convey them to the civil authority of the United States in one of the three next adjoining states or districts to be proceeded against by due process<sup>1</sup> of law."

Section 17 "If anyone charged with violating any of the provisions or regulations of the act should be found within any of the United States or either of their territorial districts such offender may be there apprehended and brought to trial in the same manner as if the crime had been committed within some state or district; and that





it shall be the duty of the military force of the United States, when called upon by the civil magistrate or any proper officer or other person duly authorized for that purpose and having a lawful warrant, to aid and assist such magistrate officer, or other person so authorized in arresting in such an offender and committing him to safe custody for trial<sup>1</sup> according to law."

The first of these methods Adams thought adapted to the arrest of a trespasser upon Indian territories at the moment he was caught in the act of committing the offense. As it applied to places where the ordinary civil processes did not function, it was left to the military to see that it was enforced by arresting the offender. The use of the civil authority could be called into effect only when the act had been committed; but even in this case, the military could be asked for aid<sup>2</sup> in arrest. The President felt that the use of either process was within his authority to see that the rights of the Indians were secured by the treaty and the law, but he decided only to use the civil process. The Secretary of War, therefore, had instructed the attorney and marshal of the United States in the district of

1. Ibid

2. Ibid





Georgia to prosecute the surveyors as violators of the law; and the agent of the United States was instructed to assure the Indians that their rights in accordance with the treaty and the law would be protected; and exhort them to refrain from acts of hostility.<sup>1</sup>

The reason he had not used military force was that the surveyors were acting "under color of legal authority from the state of Georgia" and were therefore "to be viewed in the light of individual and solitary transgressors but as the agents of a sovereign state, acting in obedience to authority which they believed to be binding upon them." That these surveyors had been given to understand that they would be supported by the state military forces and Adams wanted to avert a clash. He felt, however, that Georgia's acts vs. the Creeks were in direct violation of the supreme law of the land set forth in a treaty which had received all the sanctions required by the Constitution.

The Senate upheld the Treaty of Washington but the House backed Georgia.<sup>2</sup> Both houses, however, advised the

1. Richardson II 372
2. Abel Indian Consolidation 350





purchase of the remaining Creek lands, exactly what the President had been trying to do. McKenny got the Creeks to agree to removal.<sup>1</sup> We should note here that the Treaty of Indian Springs, although made with the Georgia Creeks, called for cessions in Alabama, which had gone back to their original owners by the treaty of Washington.<sup>2</sup> Alabama claimed vested rights and passed two acts, one criminal and one civil, extending jurisdiction over the Creeks in Alabama. Barbour told Governor Murphy that the President hoped that these acts would not conflict with laws of the United States regulating Indian Affairs. The decision of the United States District Court of Alabama declared these acts unconstitutional and so null and void. Alabama respected its decision; but Georgia would not concede.

April 1826 found the Creeks ready to migrate and it looked as if Georgia had won in her controversy with Adams; but other states became opposed to Georgia because she only stood for her own interests not for general removal, which some of them desired. Both the whites and the Indians began to look forward to the coming of Jackson, the southerners, because they thought Jackson would be on

1. United States Statutes at Large 7 5-7 Abel Indian Consolidation
2. Ibid





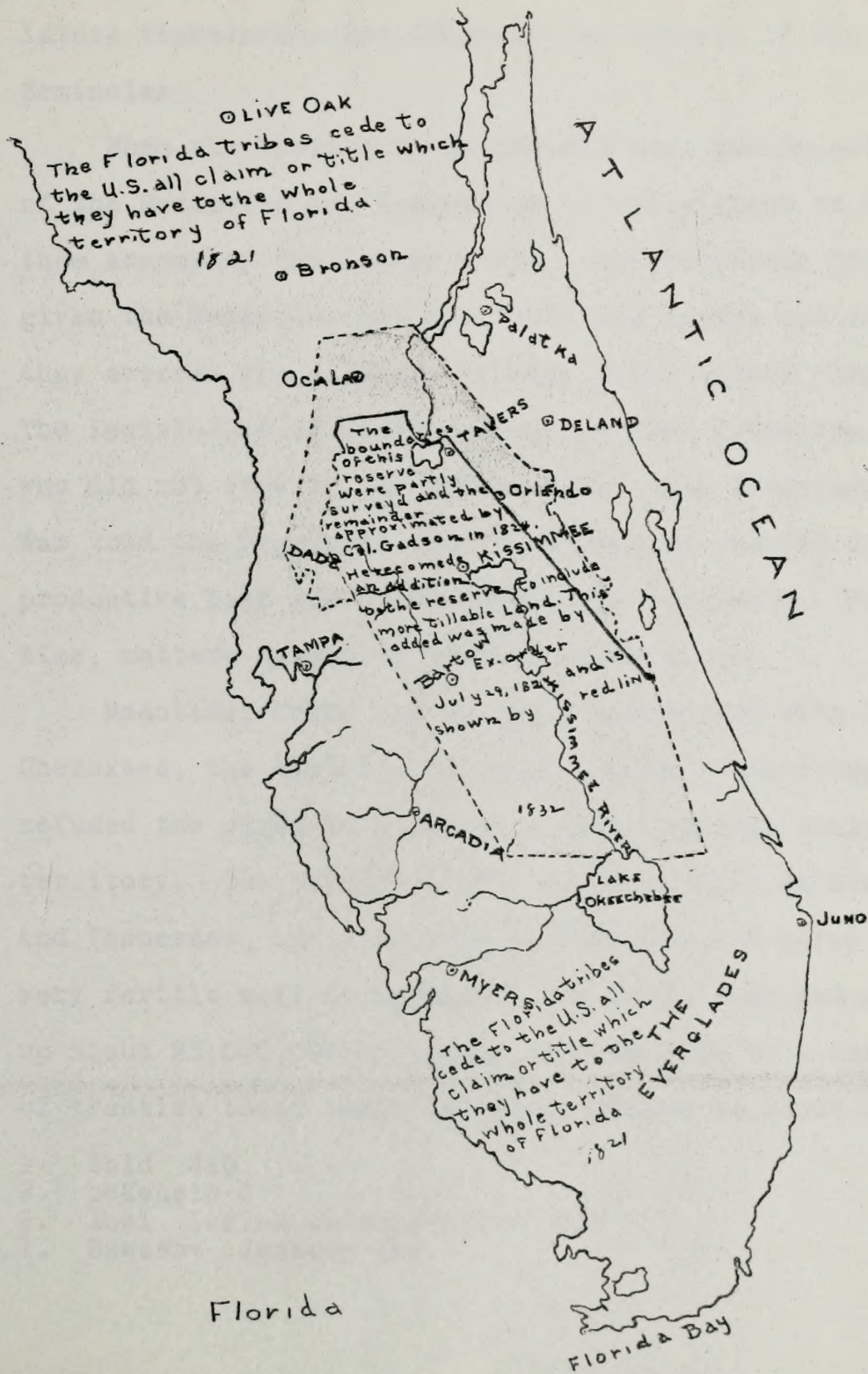
their side since he was a southerner; the Indians, because of their general dissatisfaction and the feeling acquired no one can tell how or why, that he would be just to them.

The trouble with the Florida tribes began about this time. The worst phases of the story, however, are a part of the history of the Jackson and Van Buren administrations. The Government had expected to assemble the Indians in one or two bodies and march them under military escort to land assigned north of Charlotte Harbor. The Indians came hoping for free rations as promised them by treaty. It turned out that Gadsden, to satisfy the economical spirit of Adams<sup>1</sup> and the Congress had sent in too small an estimate. The result was that some of the Seminoles would not go any farther because of lack of confidence in the government; some went to prospect in the new grant and came back dissatisfied, others stayed on, suffering because the supplies which the Government had promised them were exhausted before they had migrated to Florida. When they came back they found the title to their lands in the hands of whites, so they were homeless.<sup>2</sup> Many became vagabonds from necessity, being reduced to petty thieving

1. American State Papers Indian Affairs II 614-644
2. Abel Indian Consolidation 357











in order to live.<sup>1</sup> Florida and Georgia had harbored a grudge against the Seminoles because they were supposed to harbor fugitive slaves. The Florida legislature therefore asked Congress for removal of the Seminoles.

When the President was assured that the condition of the Seminoles was lamentable it was planned to have them accompany the Creeks west.<sup>2</sup> The temporary grant given the Seminoles did not prove big enough and so they overran the adjacent country which caused complaints. The legislature of Florida passed an act punishing Indians who did not stay on the reservation. The Secretary of War told the President that they must be removed to more productive land and given provisions regularly.<sup>3</sup> For a time, matters seemed to be at a stand still.

Meantime, Troup was having a controversy with the Cherokees, the trouble starting in 1826, when Troup was refused the right to prospect a canal through their territory. The Cherokees held land not only in Alabama and Tennessee, but also more than 50,000,000 acres of very fertile soil in Georgia.<sup>4</sup> In 1802, they had given up about 25,000,000 by treaty, and in 1825 by a series of treaties their lands had been reduced to about 9,000,000

1. Ibid 358

2. McKenzie 9

3. Abel Indian Consolidation 359

4. Bassett Jackson 685





<sup>1</sup>  
acres. The spread of cotton cultivation made it seem necessary for Georgia to have the Cherokee lands for settlement. Georgia's governor again brought pressure to force the United States government to keep its promise of 1802 even after he had been assured that the compact of 1802 could not be carried out peaceably on reasonable terms. Georgia felt "herself threatened permanently with the presence of an inferior people, with a government of their own, planted firmly within the state limits, and claiming immunity from the state laws. Such a situation could not have been contemplated in the formation of the union, and Georgia found much sympathy with her desire to overthrow it, although her methods of dealing with it were neither reasonable nor becoming."<sup>2</sup> Georgia's argument was that by Article II Section 30 of the Constitution "New states may be erected by congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state without the consent of the Legislatures of the states concerned as well as of Congress."<sup>3</sup> The recognition of this clause made it impossible for an independent Cherokee nation to exist apart from the state of Georgia.

1. Kappeler II 25-99, 303
2. Bassett Jackson 685
3. Abel Indian Consolidation 361





Considerable sympathy was likewise shown for the Cherokees because they were the most civilized of the southern tribes. Some were far advanced in civilization and removal to virgin lands would be an economic loss to them and bring about social disorganization. When Georgia sent men to survey the Cherokee lands, as had been done in the case of the Creeks, the Cherokee Council stated that it was against the express will of the Cherokee council "that any survey should be undertaken without an order from the Secretary of War because no state has authority to go upon the lands of the Indians for any such purpose."<sup>1</sup> Governor Troup wrote to Barbour, Secretary of War, in reply to the latter's request to leave the Cherokees unmolested, "Sir, you are sufficiently explicit as to the means by which you purpose to carry your resolution into effect. There the military character of the menace is established and I am only at liberty to give to it the defiance which it merits. From the first decisive act of hostility you will be considered and treated as a public enemy..... because you to whom we might constitutionally have appealed to our own defense against invasion, are yourselves invaders."<sup>2</sup>

1. Drake IV 115
2. Ibid 115-116





When we wonder why all the Indians became so unpleasant when asked to remove, we must not forget the fact that to many Indians there was something unthinkable in the idea of permanently alienating their lands. They considered themselves only life tenants of the lands that they occupied, which belonged not to the individual but "to the tribe as a permanent community which existed long before the present generation and would exist long after it."<sup>1</sup> For this reason, each Indian felt that he could not alienate it. When lands in severalty were forced upon them, they complained bitterly that "those who came<sup>2</sup> after us will have no lands."

It was evident that the Cherokees could not live under the laws of Georgia. By treaty right obtained from the United States, the Cherokees in Georgia had founded a government of their own and defied Georgia's right of jurisdiction over them when on December 26, 1827, that state annexed the Cherokee lands in Carroll and DeKalb<sup>3</sup> counties for purposes of criminal jurisdiction.

The Cherokees then consulted William Wirt who declared that they were a sovereign nation and the fact that they had placed themselves under the protection of the United

1. Grinwell 167
2. Ibid 168
3. Abel Indian Consolidation 361





States did not impair their sovereignty as an independent nation. If a weak state in placing itself under the protection of a stronger reserves for itself the right to govern it is still to be considered an independent state. Therefore the Cherokee state was within the sole and exclusive jurisdiction of the Cherokee nation, not that of Georgia; and Georgia had no right to extend her laws over the Cherokee territory. The law of Georgia which declared its right to do so was unconstitutional because it was repugnant to the treaties of the United States and the law of 1802; and against the obligation of contracts declared inviolable by the Constitution of the United States. The regulation of intercourse with the Indian tribes belonged exclusively to Congress not the state of Georgia. The Cherokees also consulted<sup>2</sup> Chief Justice Marshall, Daniel Webster and Henry Clay. When the matter was appealed to the Supreme Court, following their advice, that court supported the cause<sup>3</sup> of the Cherokees in its decision.

On December 27, 1827, the Georgia Legislature passed resolutions criticizing the United States for not keeping

1. Wirt 300 Drake IV 99
2. Drake IV 99
3. This case has already been referred to in Section I relative to right of occupancy.





the 1802 compact. The House of Representatives of the United States thereupon ordered an investigation.<sup>1</sup>

While this was going on Adams delivered his annual message of March 1823 in which he stated his opinions relative to the Indian policy of the United States, after drawing attention to the report of the Secretary of War concerning Indian relations. He stated that the principle had been adopted of considering the Indians as foreign and independent powers and also as proprietors of the lands. In his own words "As independent powers we negotiated with them by treaties; as proprietors, we purchased from them all the land which we could prevail upon them to sell; as brethren of the human race, rude and ignorant, we endeavored to bring them to the knowledge of religion and letters. The ultimate purpose was to incorporate into our institutions all those who could be converted to a state of civilization." In the practice of European states before our Revolution they had been considered as children to be governed; as tenants at discretion. In changing the system, the consequence of the change had not been considered by the United States government. We had been more successful in acquiring lands from them than in civilizing them. However, in





appropriating to ourselves their hunting grounds, we had brought upon ourselves the obligation of providing them with subsistence, and "when we have had the rare good fortune of teaching Christianity we have unexpectedly found them forming in the midst of ourselves, communities claiming to be independent of ours and rivals of sovereignty within the territories of members of the <sup>1</sup> union." A remedy was necessary and as such the report of the Secretary of War was recommended to Congress.

Upon report of the Investigating Committee above referred to Congress by Act of May 6, 1838 voted an appropriation for carrying the compact into effect. The Department of War had already made a treaty of exchange <sup>2</sup> and perpetual limits with the Arkansas Cherokees. The government therefore gave inducements for the eastern Cherokees to migrate, sending Captain James Rogers to explain to them the kind of soil, climate and prospects that awaited them in the west and to use every effort to persuade them to migrate. Unfortunately, this choice

1. Ellis 532 Otis 77 Abel Indian Consolidation 359  
Richardson I 415-416
2. United States Statutes at Large 7-311





Manus.

Reserve a tract on Klamath river.  
cede all claim to other territory.  
Oct. 6, 1851.

The confederated bands of Pawnees aforesaid cede to U.S. all their right and title in all and to all the land lying S. and to all the land lying S. of the Platte river

This was an indefinite and undefined claim, which is specifically covered by a previous Ostage decision. K 1821

in sufficient timber was found to exist, and the contingent cession of their whole reserve became effective. The U.S. thereupon selected for them another reserve as agreed.

This cession in terms includes the country E. of a line drawn from the sources of the Kansas river, southward through the Rock Saline

The country herein ceded is shown here as red, and covers portions of New Mexico, Colorado, Kansas, and Texas; the reserve (in green) is no 511.

1865

Cede tract 20 miles wide N. and S. off N. side of reservation to be sold by U.S. in trust for their Benefit. Grant one section in trust for their benefit to Catholic Mission. 1865

Cede tract 20 miles wide N. and S. off N. side of reservation to be sold by U.S. in trust for their benefit. Granted one section in trust, to Catholic Mission. 1870

1870

This recognition was  
sold under  
treaty of  
Sept. 29, 18  
and act of  
Congress  
of July 11





was unwise. He was a half breed Cherokee and because of his continued state of intoxication, nothing more<sup>1</sup> was accomplished during this administration. The rest of the story comes under Jackson's administration.

Since 1818, Indian emigrants from the north had gone to South West Missouri, some as the result of treaty agreement, many voluntarily.<sup>2</sup> About 1824, there were said to be 18,000 and more were coming.<sup>3</sup> Missouri complained, asking why she should be forced to make a home for Indians whom Georgia and Illinois did not want. In February 1825, John Lewis, a Shawnee, told the government that the north-west tribes wanted removal; desiring to discuss the question Governor Cass sent to confer with them reported that the Missouri Shawnees were willing to unite with the Ohio ones wherever they might be located.<sup>4</sup> The Osages<sup>5</sup> and Kansas finally gave up land for these Shawnees by treaty and serious trouble was avoided.

Practically all of the laws relative to Indian affairs passed by Congress during Adams's administration had to do with the carrying out of treaties made with them, or of paying their annuities as provided for by the laws of May 6, 1822 and March 25, 1824. During his administration,

1. Abel Indian Consolidation 362
2. Ibid 363
3. American State Papers 18th Congress 1st Session IV 56
4. Abel Indian Consolidation 364
5. United States Statutes at Large 7-268-270







1  
thirty more treaties were proclaimed with the Indians.

Practically identical with those of Monroe's administration	1. With the Creeks at Indian Springs	March 7, 1825
	Kappler II United States Statutes at Large 7	
	With the Osages at St. Louis	December 20, 1825
	Kappler II 217-221 United States Statutes at Large 7-240	
	With the Kansas at St. Louis	December 2, 1828
	Kappler II 222-224 United States Statutes at Large 7-243	
	(With the Poncas	February 6, 1826
	Kappler II 224-225 United States Statutes at Large 7-244	
	(With the Teton, Yanceton and Yanchnew Sioux	February 6, 1826
	Kappler II 226-228 United States Statutes at Large 7-250	
	(With the Siomes and Ogladas	February 6, 1826
	Kappler II 230-232 United States Statutes at Large 7-252	
	(With the Cheyennes	February 6, 1826
	Kappler II 232-234 United States Statutes at Large 7-255	
	(With the Hunkapoo Sioux	February 6, 1826
	Kappler II 235-236 United States Statutes at Large 7-259	
	(With the Arikaias	February 6, 1826
	Kappler II 237-239 United States Statutes at Large 7-259	
	(With the Belantse-Etoasa	February 6, 1826
	Kappler II United States Statutes at Large 7-260	
	With the Mandans	February 6, 1826
	Kappler II 242-244 United States Statutes at Large 7-264	
	With the Crows	February 6, 1826
	Kappler II 244-246 United States Statutes at Large 7-266	
	With the Great and Little Osages	February 6, 1826
	Kappler II 246-248 United States Statutes at Large 7-268	
	With the Kansas	May 3, 1826
	Kappler II 249 United States Statutes at Large 7-270	
	With the Sioux, Sacs and Foxes, etc.	February 6, 1826
	Kappler II 250-255 United States Statutes at Large 7-272	
	With the Otos and Missouriis	February 6, 1826
	Kappler II 258-260 United States Statutes at Large 7-279	
	With the Pawnees	February 6, 1826
	Kappler II 260-262 United States Statutes at Large 7-282	
	With the Makaks	February 6, 1826
	Kappler II 262-264 United States Statutes at Large 7-284	
	With the Shawnees	December 30, 1825
	Kappler II 264 United States Statutes at Large 7-286	
	With the Creeks	April 22, 1826
	Kappler II 267-268 United States Statutes at Large 7-289	
	With the Chippewas	February 7, 1827
	Kappler II 268-273 United States Statutes at Large 7-290	
	With the Potawatamies	February 7, 1827
	Kappler II 273-277 United States Statutes at Large 7-295	
	With the Miamis	January 24, 1827
	Kappler II 278-281 United States Statutes at Large 7-300	
	With the Chippewas	February 23, 1829
	Kappler II 281-283 United States Statutes at Large 7-300	
	With the Potawatamies	February 23, 1829
	Kappler II 283-284 United States Statutes at Large 7-305	
	With the Creeks	March 4, 1828
	Kappler II 284-286 United States Statutes at Large 7-307	
	With the Miamis	May 7, 1828
	Kappler II 286-287 United States Statutes at Large 7-309	
	With the West Cherokees	May 28, 1828
	Kappler II 311 United States Statutes at Large 7-301	





Generally speaking, the conditions were similar to those made under Monroe although we note new names showing the movements farther and farther west, land cessions being forced from the Indians even beyond the Mississippi with the exception of a few tribes always to be found in any list like the Cherokees, the Creeks and the Potawatamies.

We notice likewise that there are more frequent right of way clauses. Article II of the Osage Treaty of December 20, 1825, reads "The United States hereby reserve to themselves, forever, the right of navigating freely all the water courses and navigable streams within or running through the tract of country reserved" thereby protecting not only the fur trade by trade in general. The chief purpose of the treaty with the Great and Little Osage of May 3, 1826<sup>2</sup> was to acquire the right of building a road to help trade between the United States and Mexico. By Article II the chiefs guaranteed that the road should "be forever free for the use of the citizens of the United States and of the Mexican Republic, who shall at all times

Footnote 1 of page 241(continued)

- |  |                 |
|--|-----------------|
| With the Winnebagoes                               | January 7, 1829 |
| Kappler II 292-294 United States Statutes at Large | 7-305           |
| With the Potawatamies                              | January 7, 1829 |
| Kappler II 294-296 United States Statutes at Large | 7-317           |
1. United States Statutes at Large 240
  2. Ibid 268 Kappler II 247





pass and repass thereon, without any hindrance or molestation on the part of the Great and Little Osage." For this privilege, the chiefs received the munificent sum of \$500 for themselves and their people.<sup>1</sup> In the case of the Potawatamies, a strip 100 feet wide was ceded for the purpose of a road to be built by the state of Indiana from Lake Michigan to the Wabash. This is another case resulting from state pressure for which the Government was willing to pay \$30,500 in goods and an annuity.<sup>2</sup> The state of Indiana also acquired from the Miamis<sup>3</sup> the right to lay out a road or build a canal through any lands held by that tribe. In this case, the government was to pay \$31,040.53 in merchandise. The commissioners protected themselves by making this conditional on ratification by the Senate; otherwise, the tribe<sup>4</sup> was to pay back the sum from its annuity. In addition to

1. See also Kansas May 3, 1826 Kappler II 249
2. \$2000 into February 7, 1827 United States Statutes at Large 7-295 Kappler II 273-271
3. United States Statutes at Large 300 Kappler II 278-281
4. Additional payments included \$36,359.47 in goods the next summer  
\$35,000 in 1927--\$10,000 of it in goods  
\$30,000 in 1928 5,000 of it in goods  
\$25,000 afterwards as a permanent annuity





these clauses which would make the isolation desired by the Indians impossible, we find that the discovery of minerals on their lands made a lasting reservation even more impossible. In Article III of the Chippewa treaty at Prairie des Chiens February 7, 1827 is the following:- "The Chippewa tribe grant to the government of the United States the right to search for, and to carry away any minerals from any part of the country<sup>1</sup>." In its treaty with the Winnebagoes, January 7, 1829 the Government recognized damage claims from the Indians to the amount of \$12,000 resulting from trespass by United States citizens who occupied land near the lead mines in Michigan. The first pressure brought by the whites leading to removal had been because of the demand for rich agricultural lands, now it was for mineral lands.<sup>2</sup>

The payments in agricultural implements and domestic animals increased and became more definite under Adams. For instance, the Osage were promised on December 20, 1825, the immediate payment of 600 head of cattle, 500 hogs, 1000 domestic fowl, 10 yoke of oxen, 5 carts, and 4 horses for chiefs.<sup>3</sup> The largest payments were promised

1. Kappler II 270 United States Statutes at Large 7-290
2. Ibid 292-294 Ibid 7-315
3. Article III 271 Ibid 7-291





to the Potawatamies on January 7, 1829 including

- \$3,000 additional annuity
- \$1,000 annually for 20 years
- \$3,000 in goods for the year 1829
- \$5,000 in specie for the year 1829
- \$7,500 to clear lands, erect houses, purchase domestic animals and farming implements
- 2,000 lbs. of tobacco annually
- 1,500 weight of iron annually
- 350 lbs. of steel annually
- 4,000 to satisfy claims vs. the Indians and for special payments to certain individuals--1

We find several other cases of the United States assuming payment for damages claimed against the Indians, the continuation of a policy already mentioned.<sup>2</sup> We also note increased consideration for half breeds in money payments and land grants. There is one exception to the ordinary grant in fee simple to half breeds in the case of the Chippewa treaty of February 7, 1827. They requested that the grants should be made according to the old French<sup>3</sup> method.

We see evidence of the increasing cleverness of the Indians in negotiation. In the treaty with the Kansas of December 30, 1828 it was agreed that the Kansas were to receive \$3500 payable at St. Louis free of transporta-<sup>4</sup> tion cost in money, merchandise or provisions. Before

1. United States Statutes at Large 7-317 Kappler II 294-296
2. Ibid 7-240 Article 5
3. United States Statutes at Large 7-290 Kappler II 268-273 Article IV "the boundary not less than 6 aipens, nor more than 11 upon the river and running back for quantity."
4. Kappler II 222-224



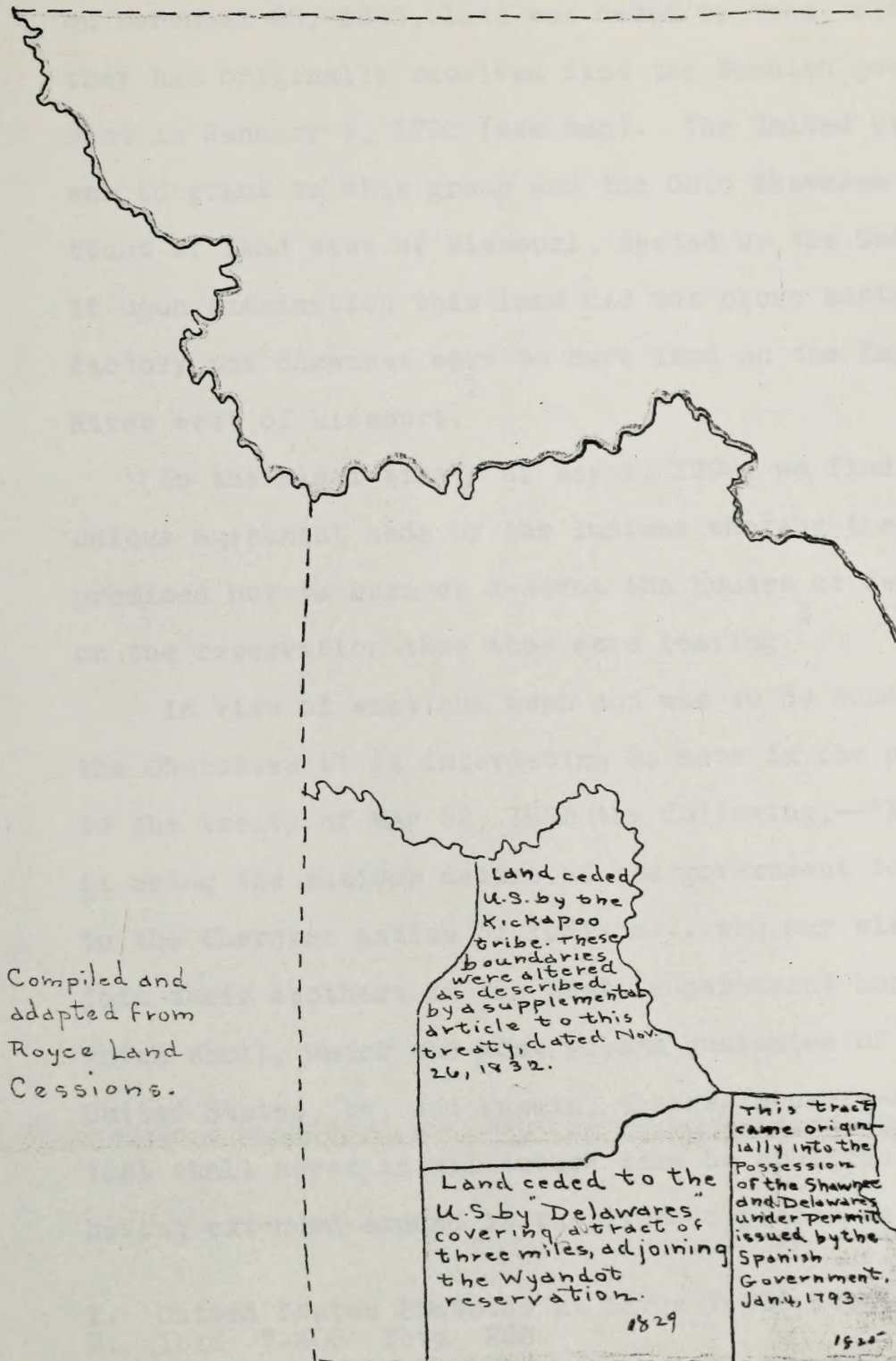


this time, the expense of transportation of goods even from the tide water had been charged to them. We find several provisions favoring the Indians if their new land grants did not come up to their expectations. For example, the Treaty of Washington with the Creeks, allowed them to send a group to investigate the western country, the United States agreeing to purchase the land chosen by them for them, if it was not within the limit<sup>1</sup> of any state or territory. In the case of the Shawnees

1. United States Statutes at Large 7-280 Article VI  
"That portion of the Creek Nation known as the friends and followers of the late General William McIntosh, having intimated to the government of the United States their wish to remove west of the Mississippi, it is hereby agreed, with their assent, that a deportation of five persons shall be sent by the, at the expense of the United States immediately after the ratification of this treaty, to examine the Indian country west of the Mississippi; not within either of the states or territories, and not possessed by the Choc-taws or Cherokees. And the United States agree to purchase for them if the same can be conveniently done upon reasonable terms, wherever they may select, a country whose extent shall in the opinion of the President, be apportioned to their annuities. And if such purchase can not be thus made, it is then agreed that the selection shall be made where the President may think proper just reference being had to the wishes of the emigrating party."







Compiled and adapted from Royce Land Cessions.

MISSOURI





on December 20, 1825, land was ceded by them, which they had originally received from the Spanish government in January 4, 1793 (see map). The United States was to grant to this group and the Ohio Shawnees a tract of land west of Missouri, deeded by the Osages. If upon examination this land did not prove satisfactory the Shawnees were to have land on the Kansas<sup>1</sup> River west of Missouri.

In the Miami treaty of May 1, 1828, we find a unique agreement made by the Indians whereby they promised not to burn or destroy the houses or fences<sup>2</sup> on the reservation that they were leaving.

In view of what had been and was to be done to the Cherokees it is interesting to note in the preamble to the treaty of May 28, 1828 the following,--"Whereas it being the anxious desire of the government to secure to the Cherokee nation of Indians....who may wish to join their brothers in the West, a permanent home, and which shall, under the most solemn guarantee of the United States, be, and remain, theirs forever--a home that shall never in all future time be embarrassed by having extended around it the line or placed on it the

1. United States Statutes at Large 7-284 Kappler II 263
2. Ibid 7-309 Ibid 286





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jurisdiction of a territory or state!" The United States government agreed to pay for improvements upon valuation of the same; and also to pay towards this removal \$50,000---\$2,000 for three years, \$2,000 towards defraying the cost and trouble of tracing cattle straying back to their old pastures, \$8700 for spoils upon them and \$1200 for Thomas Graves, a Cherokee chief for damages due to imprisonment<sup>1</sup> resulting from false accusation. The provisions for removal are referred to here because of their significance in relation to Andrew Jackson and removal. The clause reads "The cost of the emigration of all such shall also be borne by the United States....and provisions procured for their comfort, accommodation, and support, by the way, and provisions for twelve months after their arrival at the agency, and to each person or head of a family, if he take along with him four persons, shall be paid immediately on his arriving at the Agency and reporting himself and his family or followers as emigrants and permanent settlers, in addition to the above, provided he and they shall have

1. See Georgia Jurisdiction Law above





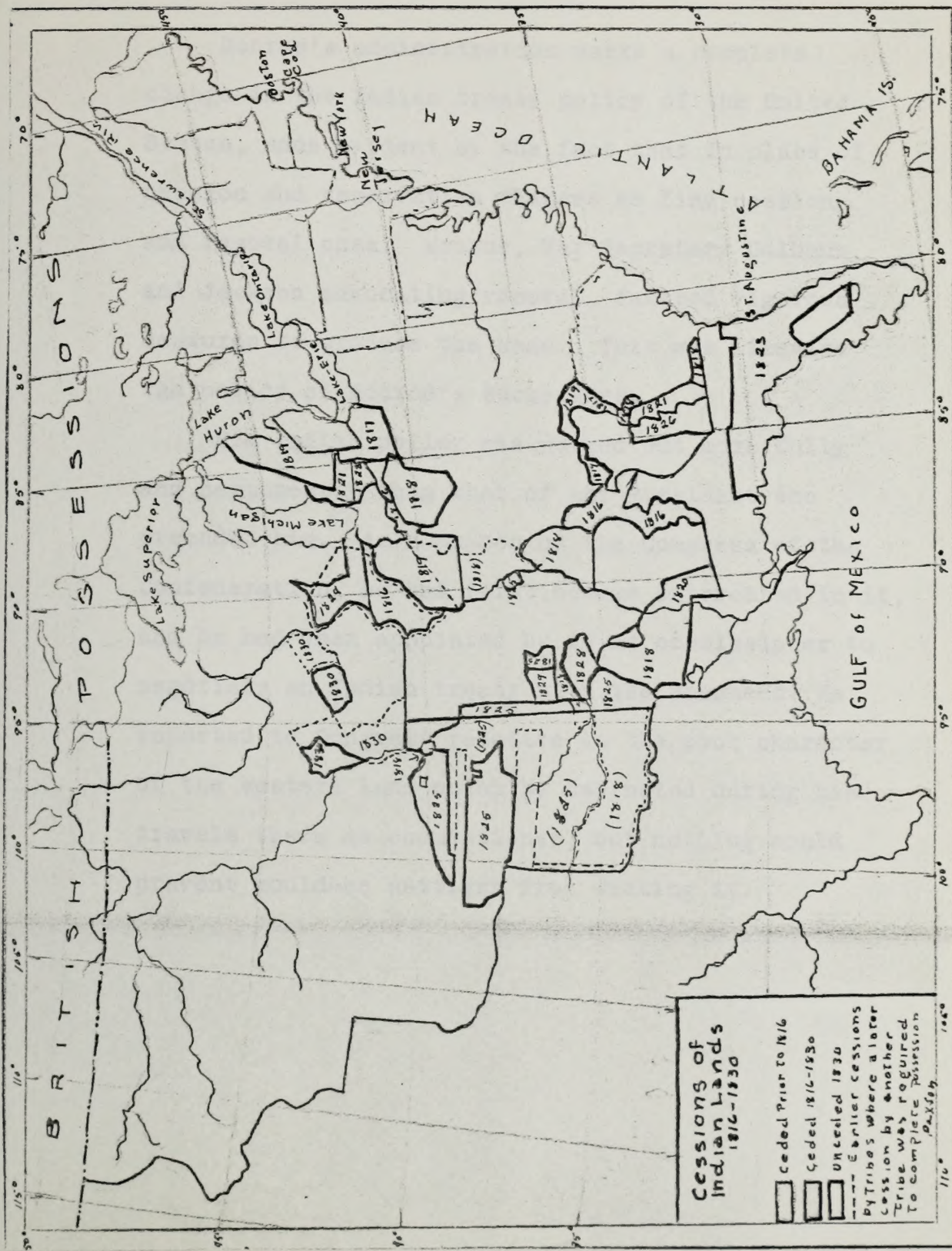
emigrated from within the chartered limits of the state  
of Georgia, the sum of \$<sup>1</sup>50. This looks like petty  
bribery!

In the treaties of Monroe's and Adams's administration we discover an increasing tendency towards removal of Indians outside of state and territorial limits, showing that Georgia and the preemptioners had won. The process of removal itself is the story of Jackson's and Van Buren's administrations.

1. Article 8 Kappler II 264











### SUMMARY III

Monroe's administration marks a complete change in the Indian treaty policy of the United States, made evident by the fact that in place of cession and reservation clauses we find cession and removal ones. Monroe, War Secretary Calhoun, and Jackson advocating removal, favored vigorous measures to produce the same. This was likewise the policy of Monroe's successors.

His Indian policy was worked out more fully and permanently than that of any President who preceded him. As a member of the Congress of the Confederation, he had first become interested in it, and he had been appointed by it as commissioner to negotiate an Indian treaty with the Shawnees. He reported to Congress relative to the poor character of the western land which he had noted during his travels there as commissioner, but nothing could prevent would-be settlers from wanting it.





In his first annual address, December 2, 1817, Monroe advocated removal of all Indians east of the Mississippi and provision for civilizing the Indians of the western frontier, referring also to the recent purchase of Indian lands by treaty. In December of the same year a series of treaties were proclaimed by which peace was again theoretically restored, and the Indians again came under the protection of the United States. In the Cherokee treaty, we find the first mention of eastern lands ceded in return for good agricultural land west of the Mississippi. In his second inaugural address, Monroe recommended the settlement of Indians on lands granted to them as individuals and the giving of aid to help them to improve in agriculture and civilization. The Southern politicians aroused by this speech, declared that the Indians were only tenants at will within state boundaries.

On March 11, 1824, John C. Calhoun, Secretary of War, created Colonel McKenny chief of a Bureau of Indian Affairs. This was the first definite step in assuring





direct guardianship over the Indians. By the Congressional Act of 1832, an Indian department was organized. Calhoun on his report to the President stated that one of the greatest evils to which the Indians were subject was the constant pressure upon them from the white population before they had had time for moral and intellectual development. Therefore he advised their removal to a line to be established west of the Mississippi. The report of the Secretary of War was made a part of Monroe's special message of 1825, advocating the removal of the Indians beyond a line to be fixed west of the Mississippi, and that a scheme of good government be planned for them. His argument was that in the condition in which they then were they could not be incorporated with the whites.

In accordance with this plan, the greater part of what is now Kansas was consolidated into a territory under the name of "Indian territory" as a permanent home for tribes moved from the more settled parts of the United States. Congressional discussion at this time





seemed to point to the fact that it was felt that the far western country should be a regular territory for red men only and no one seemed to think that there would be any serious trouble with the Indians relative to removal.

Monroe urged in his last annual message that a plan be adopted that would be helpful to the states and territories in settling the Indian question within their borders and yet would not be prejudicial to the Indians. He stated that he was opposed to coercion but suggested that after Congress had extinguished the Indian titles the eastern tribes should be invited to occupy land east of the Rockies.

The three Indian treaty principles of Monroe were

1. Congress must give the President the power to negotiate treaties with the Indians which the Senate must approve.
2. Room must be found for emigrating tribes in a country already occupied by western Indians.
3. The eastern tribes must be persuaded to cede their lands in exchange for western ones.

Monroe negotiated forty treaties in all with the Indians, some of the first being with tribes not hitherto allied to the United States by treaties, Congress passing acts to put them into effect.





John Quincy Adams inherited Indian difficulties from Monroe's administration notably the Creek ones. He finally came to believe in Indian removal, not because he felt that it was the best thing to do, but because that form of procedure seemed best under the circumstances. The states in which there were Indian reservations, insisted on the extinguishment of Indian titles to lands within their state, the principal argument for the same being that thereby quarrels between State and Federal authorities would be lessened.

Georgia was especially impatient because of the United States delay in carrying out the Compact of 1802. The Cherokees, moreover, in order to avoid emigration as provided for in the Treaty of Indian Springs, had organized their own government within the state of Georgia. Other state legislatures began to discuss the question, the case even reaching the Supreme Court of the United States when Georgia tried to annul this government of the Cherokees.

In his first inaugural address, John Quincy Adams summarized what had been done to carry out the Acts of Congress of May 25, 1824 and March 3, 1825 relative to





treaties with the Indians, and the frontier road. Making reference to the Treaty of Indian Springs, he suggested that it had already been ratified by the Senate.

.We find that the Indian question was a frequent subject for discussion at Cabinet meetings during Adams's administration. The discussion usually centered around the question as to what was to be done with the Creeks and their Treaty of Indian Springs. In 1802, Georgia had made an agreement with the United States by which the latter agreed to extinguish the Indian land titles in that state as soon as possible. In the negotiations at Black Arrow 1821, a group of Indian chiefs replied to the United States Commissioners that ruin would be the inevitable result of their removal beyond the Mississippi. To which the Commissioners replied that the Creeks must come under the laws of the whites or they must remove. The Commissioners then influenced McIntosh, a half breek Creek, cousin of Governor Troup of Georgia, to make a treaty at Indian Springs. This treaty was made by a minority of the Creeks, the majority





under Little Prince and Big Warrior declaring it, therefore, illegal.

Negotiations were then reopened with the Creeks under the Appropriation Act of May 6, 1824; and when nothing came of them, Governor Troup declared by proclamation that he would take possession of their lands. He then ordered surveys made of the Creek lands, declaring the Treaty of Indian Springs, with the promise of Creek removal, was in effect immediately on ratification. After consulting the Cabinet, Adams warned Troup that he would use all the means in his power to keep the faith of the nation, but Governor Troup kept the surveyors in the field.

A delegation from the Upper Creeks was sent to Washington to see the President. The McIntosh group were likewise represented at Washington. The result of compromise was the Treaty of Washington which Adams sent with a message to the Senate, saying that this treaty was a substitute for that of Indian Springs, which had been ratified by the Senate in the firm belief that it represented the wish of the majority of the Creek nation, but that he had since found such was not the case. That he had accepted this partial cession of





Creek lands in Georgia in the conviction that between it and a resort to forcible expulsion of the Creeks from Georgia there was no "middle term". This was ratified by the Senate.

Troup denied the right of the United States to invalidate the Treaty of Indian Springs and said he would occupy the Creek land. The treaty of Washington had guaranteed the protection of the Creeks to January 1, 1827. When Barbour, Secretary of War, directed Troup to desist, the latter did not reply until the surveyors had completed their work, including a survey of part of Alabama. The Indians stopped the surveyors and were threatened by Georgia troops.

The Creeks invoked the protection of the United States in behalf of their rights guaranteed by the Treaty of Washington. In presenting the whole story to Congress, Adams stated that the reason that he had not used military force was that the surveyors were acting under the cover of legal authority from Georgia, as a sovereign state, with a promise of military protection in the performance of their duties, and he wished to avoid a crash. The Creeks finally agreed to removal, and it would seem that Adams had been defeated in the quarrel.





Following the Treaty of Washington, certain Creek lands in Alabama had reverted to their original owners, whereupon Alabama claimed vested rights, passing a criminal and a civil act, extending jurisdiction over these lands. The United States District Court declared these acts unconstitutional and Alabama respected its decision.

The trouble with the Florida tribes began about this time. The government had expected to march them under military escort to their new reservation, promising to give the Indians free rations on the way. The estimate for food supplies proved too small; some of the Seminoles refused to go any farther, suffering for food; some went to prospect the new grants. When those who had gone into Florida returned, they found the title to their lands in the hands of the whites. When told of the condition of the Seminoles, the President planned to have them go West with the Creeks. The Secretary of War had told the President that they must be removed to more productive land and given provisions regularly.

Meantime Governor Troup was having trouble with the Cherokees. The spread of cotton cultivation had made it seem necessary that Georgia should have their lands for





settlement. When Georgia sent surveyors to their lands as she had done in the case of the Creeks they declared that it was against the will of their council that any survey should be undertaken unless with the consent of the Secretary of War. Whereupon, Troup told Barbour, "From the first decisive act of hostility, you will be considered and treated as a public enemy."

When the Cherokees formed a government of their own and Congress denied Georgia's right of jurisdiction over them on December 26, 1827 Georgia annexed their lands for purposes of criminal jurisdiction. Then the Cherokees consulted with Chief Justice Marshall, Clay, and Webster. The case was brought before the Supreme Court of the United States and decision was rendered in favor of the Cherokees. But Georgia stood firm. The rest of the story is associated with the administrations of Jackson and Van Buren.

Since 1818, Indian emigrants had been going from the north to south west Missouri. That state protested asking why she should be forced to make a home for Indians whom Georgia and Illinois did not want. By union of the different Shawnee groups from Missouri and Ohio, and the cession of their lands to the Shawnees by the Osages, and Kansas, serious trouble was avoided.





The laws of Adams's administration were passed primarily to carry into effect the annuity promises made to the Indians by treaties, and the law directing the surveying of a road from the Missouri line to Mexico for the purpose of helping the trade with that country, already well developed.

The Indian treaties were primarily made for the purpose of completing the grants of all lands formerly held by Eastern Indians, like the Creeks and Cherokees; also with the idea of lessening the amount of land held by the western ones or removing them beyond the western limits of Illinois.

Removal proper was to be carried out under Jackson and Van Buren resulting in several cases, in Indian wars, because of the dissatisfaction of the Indians.





## OUTLINE IV.

### I. Andrew Jackson's Policy

1. Believed in removal
  - a. all treaties, etc. for that purpose
2. Georgia July 1, 1830 declared Cherokee country under her jurisdiction
3. Missouri complained that she received Indians whom other states did not want
4. Congress and Removal Bill
  - a. Consulted Secretary of War, Barbour
  - b. Did not follow his advice because did not think Indian state feasible
5. Jackson's Inaugural Address
  - a. Planned to be just to Indians but
  - b. Wrote to Creeks, saying they must remove
  - c. Sent Carroll to obtain treaties or removal from Cherokees, Creeks, and Choctaws
    - (1) Advocated presents, etc.
6. First Annual Message
  - a. Failure to civilize Indians due to fact that United States kept purchasing lands, driving them back into the wilderness
  - b. United States could not interfere between Indians and states because according to Constitution it must protect them
7. Forcible Removal became a party issue
  - a. Work of Methodists and Quakers on behalf of the Indians
  - b. Senate discussed question continuously from April 6 to April 26, 1836
    - (1) President to exchange lands with Indians
    - (2) To pay Indians for improvements
    - (3) To assist in removal and care for Indians for one year after removal
8. Cherokees vs. Removal





- a. Prejudice from Jefferson's day when removal of a group proved non successful
  - b. Sent delegation to consult Webster and Freelinghuysen at Washington
  - c. Wirt, their counsel, asked Supreme Court for an injunction vs. operation of Georgia laws within their country
  - d. Case dropped by court for want of jurisdiction
9. Chickasaws and Choctaws promised to remove
10. Creek delegation at Washington told that they must remove in order to get government aid
11. Gardiner sent to treat with Ohio tribes
- a. Legality of methods questioned
12. Sacs and Foxes vs. Removal
- a. Declared that they had not sold land at mouth of Rock River
  - b. Government asked Governor Edwards of Illinois to delay before he forced removal
  - c. When Indians went on hunt lands occupied and fenced in
  - d. Militia called out to quell disturbance
    - (1) Desecrated burial ground of Indians
    - (2) Black Hawk finally surrendered
13. Jackson's Second Annual Message
- a. Thought removal coming to a successful conclusion
14. Senate's Resolution asking President if he had carried out Trade and Intercourse Act of 1803
- a. Tart reply of Jackson
  - b. Duty to states to extinguish Indian title as soon as possible
15. Replied to Georgia that between one-half and one-third of tribes would emigrate
- a. Those who remained to be governed by laws of Georgia
  - b. Hoped Ohio would not be troubled by Indians for long





16. Indian Wars

- a. Pawnees in Indian territory
- b. Toledo War in Ohio
- c. Florida and Seminole Indian War in Florida, Georgia and Alabama. Trouble continued into Van Buren's administration
- d. Sabine disturbance in Louisiana
- e. Sabine disturbance in Alabama
- f. Heatherly disturbance on Missouri and Iowa line
- g. Cherokee removal to Indian territory

17. Congress passed Indian Intercourse Act of 1834

- a. All whites forbidden to go into Indian territory without a license

18. Jackson's Seventh Annual Address

- a. All Indians on east side of Mississippi from Lake Michigan to Florida had agreed to remove
- b. Removal only temporary expedient

19. Jackson's Treaties

- a. 67 Treaties
- b. Special grants of land and money to half breeds including women
- c. Some Indians to become citizens of states--- usually half breeds
- d. Payments to chiefs to get support for removal
- e. Right of tribe to self government recognized in some instances
- f. Choctaws asked for delegate in Congress
- g. Preemptioners to be kept out of Creek lands until migration
- h. Chickasaws guaranteed vs. low price for their land when sold in lots  
(1) Request for mail route

II. Van Buren's Policy

1. Like Jackson's

- 2. In 1838 tried to persuade Choctaws, Creeks and Cherokees to exchange their Georgia lands for Kansas ones. Promised Indians would not be disturbed there.





3. Seminoles delayed removal
  - a. Uprising under Osceola
  - b. Van Buren's administration spent \$14,000,000 to quiet disturbance
4. First Annual Message
  - a. Indians would be better off if removed
5. Gilmer, Governor of Georgia, demanded that removal of the Cherokees should begin immediately
  - a. Indians assembled and made ready
    - (1) A few fugitives among the Seminoles
6. Van Buren said nothing about the creation of an Indian state but purchase and removal
7. Van Buren advised Congress to adopt the Secretary of War's Plan
  - a. Asked frontier to be placed in complete defense vs. warlike tribes
8. Second Annual Address
  - a. Speaks of prosperity of emigrants recently removed
  - b. Practically all small agriculturists (note 8 and 9 not in harmony)
9. Van Buren's Last Address December 5, 1840
  - a. Report of troops occupied in removal throughout his administration
10. Treaties made by Van Buren
  - a. Removal usually to be completed within two years
  - b. Some exploring parties prior to migration
  - c. By payments to important tribes, United States becomes a sort of trust company in behalf of the Indians
  - d. Payments to half breeds; also land grants
    - (1) Special payments to interpreters
  - e. Assumption of Indian debts and claims for damages
  - f. United States wanted friendly relations between Indians, Mexico and Texas





- g. Erection of ten houses for the Iowas
- h. Treaty with the New York Indians
  - (1) Indians asked for right to purchase lands in Wisconsin from other Indians. Treaty with Menominees and Winnebagoes
  - (2) Some Indians wanted to remove directly to Indian territory. Van Buren sided with New York, especially Buffalo, to get removal of them  
Treaty granting land in Indian territory to Indians
  - (3) Ogden and Fellows, assignees of Massachusetts, purchased claims of Senecas
  - (4) \$202,000 paid for above to be administered by the United States for the Indians

#### 11. Seminoles

- a. President reported about 2,000 left after migrations of 1836-1838
- b. Dissatisfaction of Seminoles with removal. Massacre of Major Dade and command
- c. \$14,000,000 war carried on vs. Seminoles

#### III. Tyler's Policy---Seminoles subject of every message to Congress

- 1. Finally reported only 80 warriors left
- 2. Advised change in tactics--suggested conciliations
- 3. July 18, 1845 Treaty by which Seminoles were to really remove

#### IV. Polk's Policy

- 1. Indians more favorable to removal
- 2. Second Annual Message--3000-4000 already removed with others to follow
- 3. Third Annual Message--Satisfaction of Indians as a result of paying annuities to heads of families, not chiefs.
- 4. Fourth Annual Message--\$1,842,000 paid for 18,500, 000 acres of Indian land
- 5. Practically ended removal.





## REMOVAL.

Andrew Jackson was first and last an exponent of Indian Removal as one would expect from an old Indian fighter. When he became President, the Cherokees, the Creeks, the Choctaws, and the Chickasaws alone numbered about 53,000 occupying tribal lands amounting to more than 63,000,000 acres surrounded by whites, which makes<sup>1</sup> one realize what a big issue removal became. All the treaties Jackson negotiated with the Indians and all of his executive orders, to say nothing of his letters directed to the Indians themselves, voiced that principle. Under no circumstances, he declared, could the "White Father" protect them if they insisted on remaining on their lands after the title had begun to be extinguished.

On June 1, 1830 the legislature of Georgia passed a law declaring the Cherokee country subject to her jurisdiction.<sup>2</sup> Between 1818 and this time, 1818 Indian emigrants had gone to southwest Missouri. That state complained, asking why she should be forced to receive these Indians who wished to establish their permanent home within her borders when Illinois and Georgia did not want them. Both of these episodes tended to complicate Indian

1. Bassett Jackson 684

2. Abel Indian Consolidation 362-363





removal, some of the ill effects of which Jackson had already inherited from Monroe.

Congress had been busy discussing the question, when the House finally sent the Bill, which it had drafted for the preservation of the civilization of Indians, to Secretary of War Barbour asking him for suggestions relative to the matter. He advised

1. that the country west of the Mississippi, beyond the states and territories, and west of Lake Huron and Lake Michigan should be set apart for the Indians' exclusive abode.
2. that their removal should be as individuals in contradistinction to tribes, which was a new idea.
3. that a territorial government should be created for them, to be maintained by the United States.
4. if circumstances should eventually justify it, he advised the amalgamation of the Indians into one mass, with the extinction of tribes, and the distribution of property among the individual Indians.
5. the condition of those who remained in their lands was to remain unaltered.<sup>1</sup>

2

Congress did not think this feasible because it would

1. Indian Consolidation 365 Abel
2. Ibid 366











mean an Indian state in the Union.

The emigrant Indians had already found out the uncertainty of land tenure in the new country, the result being that general emigration in the case of certain tribes, like the Choctaws and the Cherokees, was delayed as a consequence.<sup>1</sup>

In his first Inaugural Address, Jackson declared<sup>2</sup> relative to the Indians, "It will be my sincere and constant desire to observe toward the Indian tribes within our limits, a just and liberal policy, and to give that humane and considerate attention to their rights and their wants which is consistent with the habits of our Government and the feelings of our people!" "As a means of effecting this end, I suggest for your consideration, the propriety of setting apart an ample district, west of the Mississippi and without the limits of any state or territory now formed, to be guaranteed to the Indian tribes as long as they shall occupy it."<sup>3</sup> The Indians took heart from this, although his methods had always been coercive with them, and the south felt disappointed for the time being.<sup>4</sup> But within a fortnight after this speech, he addressed the Creeks<sup>5</sup>, telling

1. Ibid 367
2. Richardson II 438 Abel Indian Consolidation 370 Bassett 687 Manypenny 107
3. Manypenny 109 Richardson II 439 Otis 96
4. Abel Indian Consolidation 370
5. March 23 Indian Consolidation Abel





them that it was necessary for them to remove; and in the next month Secretary Eaton answered the Creeks' appeal for delay in a similar fashion. The newspapers<sup>1</sup> of Georgia spread the news far and wide.

Jackson sent a confidential agent, General William Carroll, on a secret mission to the Creeks, Cherokees and Choctaws, with the object of securing a removal agree-<sup>2</sup>ment from them. Later, he sent a commission to try to<sup>3</sup> purchase lands from the South Carolina Cherokees. In the letter of direction to Carroll, Secretary of War Eaton wrote, The President is "of opinion that if they can be approached in any way that shall elude their prejudices, and be enlightened as to their true relations to the states they will consent to remove...Nothing is more certain than that if the chiefs and influential men could be brought into the measure, the rest would implicitly follow. Presents in your discretion to the amount of

1. "Both tribes were distinctly given to understand that the United States could not and would not interfere with the legitimate authority of a state within her own limits; there was no remedy for such except removals. If they wanted a home that they could call their own, they must go west for there the President could guarantee that the soil should be theirs 'as long as the trees grow and the waters run' ".  
Natchez Gazette June 27, 1829
2. Abel Indian Consolidation 371
3. Royce 260





not more than \$2000 ought to be made with effect, by attaching to you the poorer Indians as you pass through their country, given as a friend; and the same to the children of the chiefs and the chiefs themselves in clothes or otherwise."<sup>1</sup> The Commissioner found that, while some Creeks and Cherokees were thinking of removal,<sup>2</sup> the nations as a whole were still against it. The whites flocked to the mines in the Cherokee country and clashes came between them and the Indians.<sup>3</sup> The government could do nothing in the matter of awarding damages out of the tribal funds until the Indians were convicted and identified as regular aggressors on disinterested testimony, which was practically impossible to find.

In the first annual message, Jackson stated the reasons why he thought the government had not been successful in civilizing the Indians as follows, "It has long been the policy of the government to introduce among them the acts of civilization on the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another wholly incompatible with its success. Professing a desire to civilize and settle

1. Abel Indian Consolidation 371
2. Royce 260 Abel Indian Consolidation 375 (1200 Creeks and 43 Cherokees removed)
3. Eaton suggested in his letter to Forsyth September 19, 1829 that it was "just possible that the Indians were not the aggressors." Abel 377





them, we have at the same time, lost no opportunity to purchase their lands and thrust them further into the wilderness. By this means, they have not only been kept in a wandering state but have been led to look upon us as unjust and indifferent to their fate."<sup>1</sup>

Relative to whether the United States could interfere on behalf of the state against the Indians he stated, "The constitution declares that no state shall be formed or erected within the territory of one of the members of the Union against her consent, much less could it allow a foreign and independent government to establish itself there; Georgia became a member of the Confederacy which eventuated in our Federal Union as a sovereign state, always asserting her claim to certain limits, which having been defined in her colonial charter and subsequently recognized in the treaty of peace, she had ever since continued to enjoy, except as they have been circumscribed by her own voluntary transfer of a portion of her territory to the United States in the articles of cession of 1802.<sup>2</sup>.....If the government took sides under such circumstances against the states, it would be that the objects of that government were reversed and that it has become

1. Richardson III 456
2. Richardson III 457





a part of its duty to aid in destroying the states<sup>1</sup> which it was established to protect." For this reason, Jackson reported that he would not countenance the Indians opposition to Georgia and Alabama and had advised them to emigrate beyond the Mississippi or submit<sup>2</sup> to the laws of the state.

With the development of Jackson's policy of forceful removal, the issue became a party question and many religious denominations ranged themselves against it, especially the Quakers and the Congregationists.<sup>3</sup> The Removal Bill already before Congress was referred to the Committees on Indian Affairs of the House and the Senate. White of Tennessee and Troup of Georgia were members of that Committee in the Senate; and on the House Committee, we find Bell of Tennessee, Hinds of Mississippi, Lewis of Alabama, and Gather of Kentucky. Naturally, the reports<sup>4</sup> were in favor of removal. After considerable discussion, the House substituted the Senate Bill for its own. The friends of Adams opposed the bill and philanthropists<sup>5</sup> sent many petitions to Congress in behalf of the Indians.

The Senate discussed the question almost continuously<sup>6</sup> from April 6 to April 26. Although the Compromise line

1. Ibid

2. Ibid 458

3. Abel Indian Consolidation 377. The Baptists kept out of the controversy because they stood for an Indian State, the Methodists were divided, and the Episcopalians and Presbyterians did not support it as church organizations.

4. Abel Indian Consolidation 378

5. House Journal 21st Congress 1st Session Freelingshuysen

6. Removal of Indians Speeches of Bates, — etc. 1-299





of 1820 was discussed, most of the arguments were relative to state sovereignty. Representative Storrs of New York exposed the fallacy of pretending to remove the Indians for their own good from a community where they had homes, churches, and schools to a wilderness, <sup>1</sup> which was an attack vs. the expressed views of the administration. Storrs accused the President of embarrassing Congress by stating the extent of state authority and said that he had taken upon himself power not conceded to the Executive because once a treaty is adopted as the supreme law of the land, the President "has no dispensing power over it." <sup>2</sup> Ellsworth of Connecticut opposed forced removal declaring that the south and the southwest were acting from mercenary motives. <sup>3</sup> In spite of strong opposition, however, the bill was forced through Congress. This law entitled "an act to provide for an exchange of lands with the Indians residing in any of the states or territories and for their removal west of the Mississippi," <sup>4</sup> was approved by Jackson May 28, 1830. By it the President was authorized to offer an exchange of lands to tribes "now residing within the limits of the states or territories," <sup>5</sup> although nothing was said about compulsory removal. The President was to solemnly assure the tribes with whom the exchange was made that

1. Benton Thirty Years View I 64
2. Gales and Seatons Register III 996-1003 Abel Indian Consolidation 389
3. Abel Indian Consolidation 380  
United States Statutes at Large 4-411
4. Laws Relative to Indians 71-72
5. Abel Indian Consolidation 285





the United States would secure forever and guarantee<sup>1</sup> to them the land so exchanged. The President was also to have the improvements assessed and to see that the Indians were paid for the same.<sup>2</sup> By Section V, he was authorized to aid the Indians to remove and to give them the necessary support for one year after that removal,<sup>3</sup> protecting them against disturbance "from any other tribe or nation of Indians or from any person or persons whatsoever."<sup>4</sup> Nothing, however, was said about compulsory removal. The sum of \$500,000 was voted to put the Act into effect.

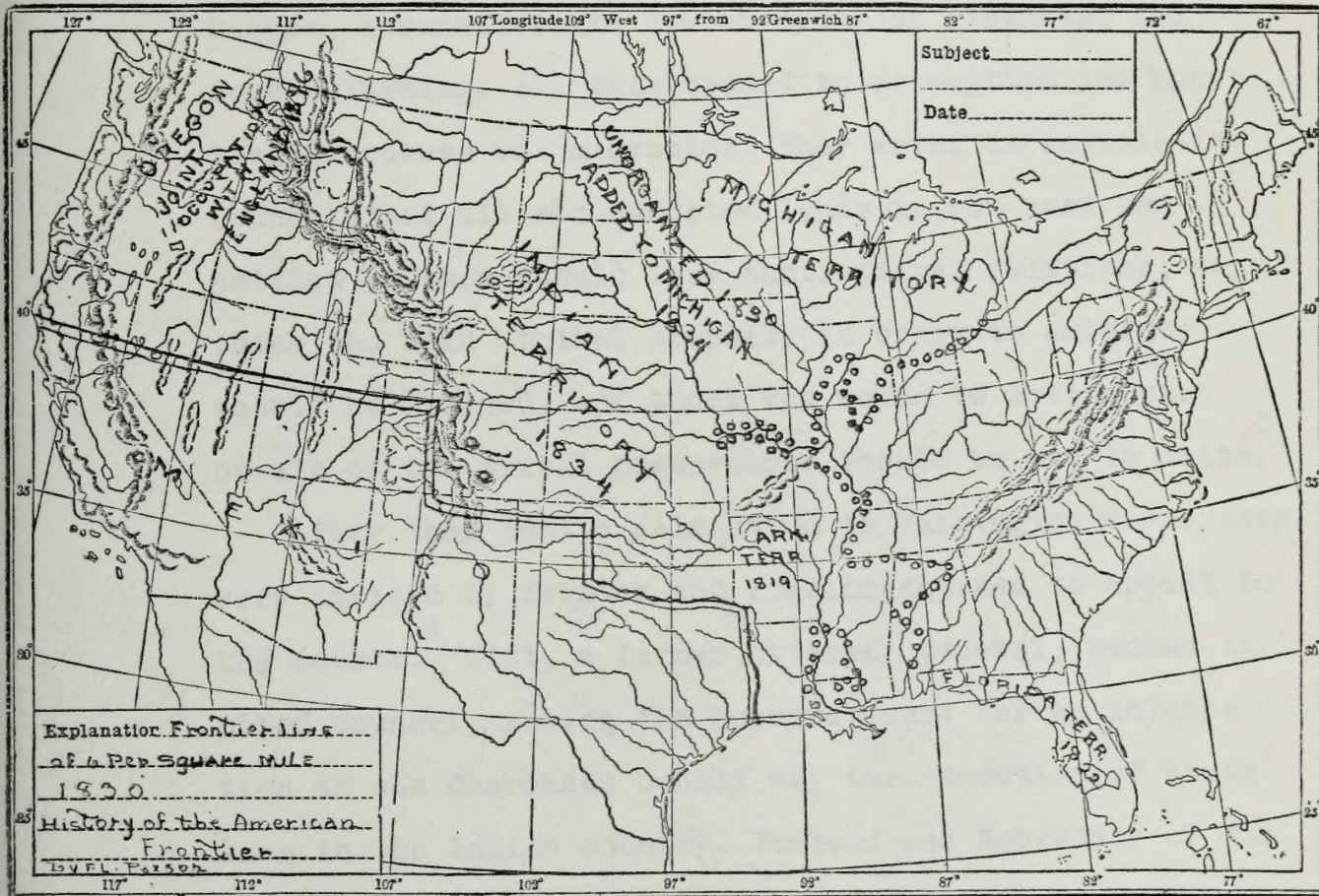
The Cherokees objected strenuously to removal as was to be expected.<sup>5</sup> Their prejudice against removal dated back to Jefferson's day. In an appeal to the President in 1808, they had said that "those wishing to lead a hunter's life, owing to the scarcity of game in their

1. Manypenny 71
2. Section IV Laws Relative to Indians 72
3. Manypenny 77 Section V "That upon the making of any such exchange as is contemplated by this act, it shall and may be lawful for the President to cause such aid and assistance to be furnished to the emigrants as may be necessary and proper to enable them to remove to, and settle in, the country for which they may have exchanged; and also to give them such aid and assistance as may be necessary for the support and subsistence for the first year after their removal." Laws Relative to Indians 73
4. Section 6 Laws Relative to Indians 73
5. Jackson ordered them to make ready to remove June 6, 1830.





McKinley's Geographical and Historical Outline Maps. No. 175c. United States (physical features and State boundaries).







country, requested liberty to go over the Mississippi and occupy some vacant lands belonging to the United States." <sup>1</sup> The President had given his consent.

Eventually, between 4000 and 5000 of the lower town <sup>2</sup> Cherokees did emigrate to Arkansas where they had a wretched life, some being killed in wars with the Osages, a considerable number dying of sickness, and some returning. All this tended to strengthen the upper town Cherokees vs. migration. They voted in legislative Council that all who accepted lands in the west and settled on them should lose their tribal relations, that those who sold tribal property in order to emigrate should be whipped, and those who voted to sell a part <sup>3</sup> or all of the tribal possessions should be put to death.

They then sent a delegation to Washington where they were advised by Webster and Freelinghuysen to appeal to the courts. <sup>4</sup> Wirt, a former attorney general, became their chief counsel, asking the Supreme Court for an injunction on the Cherokees behalf vs. the execution of state laws in the Indian country. <sup>5</sup> Jackson and Secretary of War Eaton planned to spend the holidays in Tennessee, and

1. Drake 106
2. Ibid 110, 111
3. Bassett 687 cf. Creeks above in McIntosh case
4. Abel Indian Consolidation 285
5. Kennedy Wirt II 254-258 Bassett 688





notified the southern tribes and delegates to meet with them, which the Creeks and Cherokees did not do, as they were counting on their appeals through Wirt to the Supreme Court.<sup>1</sup> The case was subsequently<sup>2</sup> dismissed by the court for want of jurisdiction.

The Chickasaws came, however, and Jackson told them that this was their last chance for peaceful settlement; if they refused to move now, the "Great Father would leave them to shift for themselves; if they could not live happily under Mississippi law, they would have to seek a new home in their own way and at their own expense. The result was that the Chickasaws and the Choctaws promised to remove in 1830.<sup>3</sup> The Choctaws tried to protect themselves by Article IV of the Treaty of Dancing Rabbit whereby

1. Creeks (see above under Adams)
2. Cherokees vs. Georgia 5 Peters 1-80 The court held that the Cherokees were not a foreign nation according to the constitution and so could not bring a suit cognizable by the Supreme Court. Bassett 688. When Georgia was summoned to appear before the Supreme Court in the case of Butler vs. Worcester, she raised the cry of state rights, and refused to appear declaring that any attempt to interfere with her criminal jurisdiction would challenge the most determined resistance, and if persisted in would eventually annihilate the Union.
3. United States Statutes at Large 7-333





they were promised that no state or territory should ever circumscribe them,<sup>1</sup> but all in vain. More will be said later about these treaties.

Colonel James B. Gardiner was appointed by the President to treat with the Ohio tribes. In this case, it is an interesting fact that both the Indians and the whites wanted the title extinguished because the Indians were completely surrounded by whites.<sup>2</sup> Gardiner negotiated five treaties of exchange in the spring and summer of 1831, but his methods were so bad that Ewing of Ohio moved in the Senate that an inquiry be made relative to the genuineness of the documents presented for ratification. Nothing came of it and Gardiner was appointed Superintendent of Removal by Jackson.

The condition of the Creeks had now become very pitiable. They appealed to the War Department saying that many of them were starving and that the system of distributing annuities had been changed without

1. Article IV "The Government and the people of the United States are hereby obliged to secure to the said Choctaw Nation of Red People, the jurisdiction and government of all the persons and property that may be within their limit west, so that no territory or state shall ever have a right to pass laws for the government of the Choctaw Nation of Red People and their descendants; and that no part of the land granted them shall ever be embraced in any territory or state."
2. Abel Indian Consolidation 384





consulting them.<sup>1</sup> Finally, they were allowed to send delegates to Washington where they were told that they must agree to removal, since the rights of states must be recognized.

Meantime, the Sacs and Foxes in Illinois who were opposing removal, denied that the Treaty which they had made with Governor Harrison in 1804<sup>2</sup> as read to them had had any stipulation relative to land north of the mouth of Rock River and that they had not sold it at that time. Because of the dispute, they had been allowed to stay indefinitely on this disputed territory.<sup>3</sup> Governor Edwards finally determined to get rid of them and when the Indians returned from the hunt in the spring of 1829, they found<sup>4</sup> their lodges torn down and their corn fields fenced in. The Indians were enraged and there was danger that there would be a combination of tribes if the squatters were not removed. The Sacs and Foxes divided into two groups, the first one called Keokuks, willing for peace and agreeable to removal, when their crops had been gathered, and the Black Hawks, named from their leader. The Department of War asked Governor Edwards to delay a year before

1. Abel Indian Consolidation 386
2. United States Statutes at Large 7-84 through 87
3. There was no question that they had had the right to hunt upon this land reserved to them. Compilation 731
4. Abel Indian Consolidation





he brought pressure to bear upon the tribes, which he promised to do; but the Indians went on a hunt only to find upon their return, however, that their lands<sup>1</sup> had been surveyed and sold during their absence. In retaliation the Indians threatened to destroy the white settlements from Detroit to the Sabine. On complaint of the whites, the militia was called out, but in quelling the disturbance the Indian Burial ground was desecrated. Finally, the Indians withdrew to the west bank of the Mississippi and signed capitulations on June 30, 1831 with the exception of the group under Black Hawk who continued to wage war from April 26 to September 30, 1832<sup>2</sup> in Illinois and Wisconsin. He finally surrendered at Prairie du Chien August 27, 1832 and was taken to Washington to see the "Great Father" with whom he kept peace the rest of his life, having settled on the Des Moines River<sup>3</sup> in Iowa.

In spite of these Indian disturbances, Jackson was evidently sanguine about the success of removal because in his second Annual Message of December 6, 1830, he declared, "It gives me pleasure to announce to Congress that

1. Abel Indian Consolidation 390
2. Darson and Sturvi Complete History of Illinois 375
3. Bulletin 14 Office of Indian Affairs





the benevolent policy of the government steadily pursued for nearly thirty years, in relation to removal of the Indians beyond the white settlements is approaching to a happy consummation. Important tribes have accepted the provision made for their removal.<sup>1</sup> He thought others would follow their example, releasing the whole state of Mississippi; and the western part of Alabama of Indian occupancy, and he concluded his message in this cold hearted manner. "Humanity has often wept over the fate of the aborigines of this country, and Philanthropy has been busily employed in devising means to avert it but its progress has never for a moment been arrested....But true philanthropy reconciles the mind to these vicissitudes as it does to the extinction of one generation to make room for another."<sup>2</sup><sup>3</sup>

When the Senate passed a Resolution on February 22, 1831, requesting the President to report whether the provisions of the act regulating Trade and Intercourse with the Indian tribes and to preserve the peace on the frontiers passed March 30, 1803 had been carried out, his reply was typical of his attitude in regard to the question.

1. Richardson III 519-520 Ohio 97
2. Ibid 521
3. Abel III 521





He tartly replied that he was not aware of any omission<sup>1</sup> on his part to carry its provisions into effect, adding "It is a duty which this government owes to the new states to extinguish as soon as possible the Indian title to all lands which Congress themselves have included within their limits. When this is done, the duties of the general government relative to states and the Indians within their limits are at an end. The Indians may leave<sup>2</sup> the state or not as they chose."

He continued this idea in his message of December 6<sup>3</sup> of the same year. After Georgia had requested that the Cherokee emigration should be resumed, Jackson reported that between one half and two thirds would emigrate, stating that "those who prefer to remain at their present homes will hereafter be governed by the laws of Georgia as all her Citizens are, and cease to be the objects of peculiar care on the part of the federal government", greatly to the satisfaction of that state. Jackson concluded by saying that he hoped that the time would not be far distant when Ohio, likewise, would not be embarrassed by her Indian population saying that it was confidentially believed that perserverance for ten years in the present

1. Richardson III 537-538 Otis 97
2. Ibid 538
3. Ibid 254





policy would remove beyond the limits of the states every Indian not willing to submit to their laws. Reading between the lines, we realize from his message of 1833 that he had not found removal easy. He declared that the "Indians have neither the intelligence, the industry, the moral habits, nor the desire for improvement, which are essential to any favorable change in their condition. Removal is the only thing to stop their disappearance before a superior civilization. Those who have migrated are doing well."<sup>1</sup>

In 1834 he stated, "The experience of every year adds to the conclusion that emigration and that alone can preserve from destruction the remnants of the tribes yet living among us." With a President of this opinion and his determination to force removal, it is not strange that series of Indian wars occurred during the period from 1834-1837 all of which were speedily ended under the direction of this old Indian fighter.<sup>2</sup>

1. Otis 1833
2. Bulletin 14 Office of Indian Affairs
  - 1834 Pawnee Expedition into Indian Territory
  - 1835-1836 The Toledo War on Ohio and Michigan Boundary Dispute
  - 1835-1842 Florida or Seminole Indian War in Florida, Georgia and Alabama
  - 1836-1837 Sabine disturbance in Louisiana
  - 1836-1837 Creek disturbance in Alabama
  - 1836 Heatherly Indian disturbance on Missouri and Iowa line
  - 1836-1838 Cherokee disturbances and removal to the Indian territory
  - 1839 Osage Indian War in Missouri





The worst side of Jackson's force policy is seen in the case of the Seminoles. Jackson had commissioned Gadsden to negotiate with this tribe who were in great need, offering to help them only if they would emigrate.<sup>1</sup> The Creeks agreed to allow<sup>2</sup> the Seminoles to go with them and settle with them; and the Seminoles agreed to migrate, only to change their minds when told of the character of the western lands. They then gave up passive resistance against removal, taking to the swamps and everglades from which they carried on an unpleasant war for over ten years. The rest of the story belongs to Van Buren's administration.

We can judge how persistent had been the demands for Indian removal when we realize that the Land Office under Jackson was swamped with patents. In 1833 alone, there were 20,000 title deeds waiting for his signature,<sup>3</sup> when Congress voted a clerk for him.

In order to stop the trouble between the whites and the Indians on the border, Congress passed the Indian Intercourse Act of 1834, forbidding any white person to go into the Indian country without a license from the

1. Abel Indian Consolidation 391
2. Compilation 102 United States Statutes at Large 7-368 Article VII
3. Paxson 319.





Indian commissioner.<sup>1</sup> The statute defined the Indian country as all that part of the United States west of the Mississippi and not within the states of Missouri and Louisiana, or the territory of Arkansas: and also that part of the United States, East of the Mississippi River, and not within any state to which the Indian title had not been extinguished.<sup>2</sup> It is to be noted that there was no fixed policy adopted either by Congress or the President for reclamation and civilization of these Indians after removal. No one apparently made any attempt to convert the Indian from a nomad to a farmer, if he had not already trained himself in agriculture before removal.<sup>3</sup> And yet in his fifth annual message, Jackson declared "Our relation with various tribes have been undisturbed since the termination of the difficulties growing out of the aggressions of the Sacs and Fox Indians....The emigrants generally are represented to be prosperous and contented and the country suitable for their wants and habits and the essential articles of subsistence easily procured."<sup>4</sup> If the reports of army officers of the time were true, the embalmed beef of the Spanish War was ambrosia to

1. Paxson 271 McKenzie 10 United States Statutes at Large 4-729
2. Meaning the region north of Illinois and Indiana, northwest Ohio--now Michigan and Wisconsin
3. Manypenny 115
4. Richardson III 32





what the Indians were paid from the army supplies while they were travelling under military escort. Surely Jackson could not have been deaf to the complaints relative to this and the frightful overcrowding of the small boats used for the trans-Mississippi crossing.<sup>1</sup>

Jackson's report on the progress of removal was incorporated in his seventh annual message which concluded with the following.<sup>2</sup> "Many have already removed and others are preparing to go with the exception of two small bands living in Ohio and Indiana; not exceeding 5,000 persons....all the tribes on the east side of the Mississippi and extending from Lake Michigan to Florida have entered into engagements which will lead to their transplantation." Without any doubt removal as carried out by Jackson was planned too hastily and

1. Manypenny 135-140. Manypenny reports relative to the removal of the Santee Sioux.

Guard to accompany Indians-

4 commissioned officers

135 soldiers

1 laundress

140 persons for 1318 Indians

Amount paid for transportation \$36,372.10

Winnebagoes 1945

Amount paid

\$56,042.60

Total \$95,864.70

Transportation from Fort Snelling to Hannibal Missouri on two steamboats:-

1 group all the way by boat;excluded from cabin, confined to upper and lower decks.

Food--hard bread)uncooked because could only cook at mess pork )night when boat tied up.  
no sugar, coffee or vegetables

Deaths--3 to 4 a day six weeks after reaching destination, 150 in all in a few weeks

In camp--beef furnished --cattle which had hauled supplies from Minnesota.

In January soup issued every other day;on the day soup was issued the Indians had no other food supplied.

2. Richardson III 171 Paxson 284

Manypenny 136.





carried out too partially; for it proved to be only a temporary expedient since it did not provide self government for tribes all ready for it. Before the primary removals had all taken place as planned, the secondary ones had begun and the land which was to belong to the Indians in perpetuity was on the<sup>1</sup> market.

Congress certainly could not complain of Jackson's zeal in carrying out the treaty clause of its Indian Law of 1830 but humanity will question his methods in both forcing the Indians to make removal treaties and then forcing them to carry out the terms of the agree-

1. Abel Consolidation 412

Indian as a Slaveholder 24-25. "It is rather interesting to observe in this connection how inconsistent human nature is when expediency is the thing at stake; for it happened that the same people, and the same party identically, that in the second and third decades of the nineteenth century, had tried to convince the Indians, and against them the judgment too, that the red man would be forever unmolested in the western country because the federal government owned it absolutely and could give a title in perpetuity, argued, in the fourth and fifth decades that the states were the sole proprietors, that they were in fact the joint owners of everything."







ments. In all he made sixty-seven treaties, all of

1. With the Chippewas proclaimed January 2, 1830  
 Kappler II 297-300 United States Statutes at Large 7-320  
 With the Winnebagoes proclaimed January 2, 1830  
 Kappler II 300-303 United States Statutes at Large 7-323  
 With the Delawares proclaimed January 2, 1830  
 Kappler II 303-304 United States Statutes at Large 7-326  
 With the Delawares proclaimed March 24, 1831  
 (removal aids in addition to treaty of January 2, 1830  
 Kappler II 304-305 United States Statutes at Large 7-327  
 With the Sauks and Foxes proclaimed February 24, 1831  
 Kappler II 305-310 United States Statutes at Large 7-328  
 With the Choctaws proclaimed February 24, 1831  
 Kappler II 310-319 United States Statutes at Large 7-333  
 With the Menominees proclaimed July 9, 1832 with supplement  
 Kappler II 319-323 United States Statutes at Large 7-342  
 With supplement July 9, 1832  
 Kappler II 323-325 United States Statutes at Large 7-346  
 With the Senecas proclaimed March 24, 1831  
 Kappler II 325-327 United States Statutes at Large 7-348  
 With the Senecas proclaimed April 6, 1832  
 Kappler II 327-331 United States Statutes at Large 7-351  
 With the Shawnees proclaimed April 6, 1832  
 Kappler II 331-334 United States Statutes at Large 7-355  
 With the Ottawas proclaimed April 6, 1832  
 Kappler II 335-339 United States Statutes at Large 7-359  
 With the Wyandots proclaimed April 6, 1832  
 Kappler II 339-341 United States Statutes at Large 7-364  
 With the Creeks proclaimed April 4, 1832  
 Kappler II 341-343 United States Statutes at Large 7-366  
 With the Seminoles proclaimed April 12, 1834  
 Kappler II 344-345 United States Statutes at Large 7-368  
 With the Winnebagoes proclaimed February 2, 1833  
 Kappler II 345-348 United States Statutes at Large 7-370  
 With the Sauks and Foxes proclaimed February 13, 1833  
 Kappler II 349-351 United States Statutes at Large 7-374  
 With the Appalachicola Band proclaimed February 13, 1833  
 Kappler II 352 United States Statutes at Large 7-377  
 With the Potawatamies proclaimed January 21, 1833  
 Kappler II 353-356 United States Statutes at Large 7-378  
 With the Chickasaws proclaimed March 1, 1833  
 Kappler II 356-362 United States Statutes at Large 7-381  
 With the Chickasaws proclaimed October 22, 1832  
 Kappler II 362-367 United States Statutes at Large 7-388  
 With the Kickapoos proclaimed February 13, 1833  
 Kappler II 365-367 United States Statutes at Large 7-391  
 With the Potawatamies proclaimed January 21, 1833  
 Kappler II 367-370 United States Statutes at Large 7-394  
 With the Shawnees proclaimed February 12, 1833  
 Kappler II 370-372 United States Statutes at Large 7-397







Footnote 1 of page293 (continued)

With the Potawatamies proclaimed	January 21, 1833
Kappler II 372-375 United States Statutes at Large	7-399
With the Kaskaskias proclaimed	February 12, 1833
Kappler II 376-371 United States Statutes at Large	7-403
With the Menominees proclaimed	March 13, 1833
Kappler II 377-382 United States Statutes at Large	7-405
With the Piankashaws and Weas proclaimed	February 12, 1833
Kappler II 382-383 United States Statutes at Large	7-410
With the Senecas and Shawnees proclaimed	March 22, 1833
Kappler II 383-385 United States Statutes at Large	7-411
With the Western Cherokees	April 12, 1834
Kappler II 385-388 United States Statutes at Large	7-414
With the Creeks proclaimed	April 12, 1834
Kappler II 388-391 United States Statutes at Large	7-417
With the Ottawas proclaimed	March 22, 1833
Kappler II 392-394 United States Statutes at Large	7-420
With the Seminoles proclaimed	April 12, 1834
Kappler II 394-395 United States Statutes at Large	7-423
With the Ivapaws proclaimed	April 12, 1834
Kappler II 395-398 United States Statutes at Large	7-424
With the AppalachicolaBand proclaimed	April 12, 1834
Kappler II 398-400 United States Statutes at Large	7-427
With the Otos and Missouriis proclaimed	April 12, 1834
Kappler II 400-402 United States Statutes at Large	7-429
With the Chippewas proclaimed	February 21, 1835
Kappler II 402-415 United States Statutes at Large	7-431
With the Pawnees proclaimed	April 12, 1834
Kappler II 416-418 United States Statutes at Large	7-448
With the Chickasaws proclaimed	July 1, 1834
Kappler II 418-425 United States Statutes at Large	7-450
With the Miamis proclaimed	December 22, 1837
Kappler II 425-428 United States Statutes at Large	7-458
With the Potawatamies proclaimed	March 16, 1835
Kappler II 428-429 United States Statutes at Large	7-467
With the Potawatamies proclaimed	March 16, 1835
Kappler II 429 United States Statutes at Large	7-467
With the Potawatamies proclaimed	March 16, 1835
Kappler II 430 United States Statutes at Large	7-468
With the Potawatamies proclaimed	March 16, 1835
Kappler II 431 United States Statutes at Large	7-469
With the Caddos proclaimed	February 2, 1836
Kappler II 433-434 United States Statutes at Large	7-470
With the Comanches proclaimed	May 19, 1836
Kappler II 435-439 United States Statutes at Large	7-474
With the Cherokees proclaimed	May 23, 1836
Kappler II 439-449 United States Statutes at Large	7-478



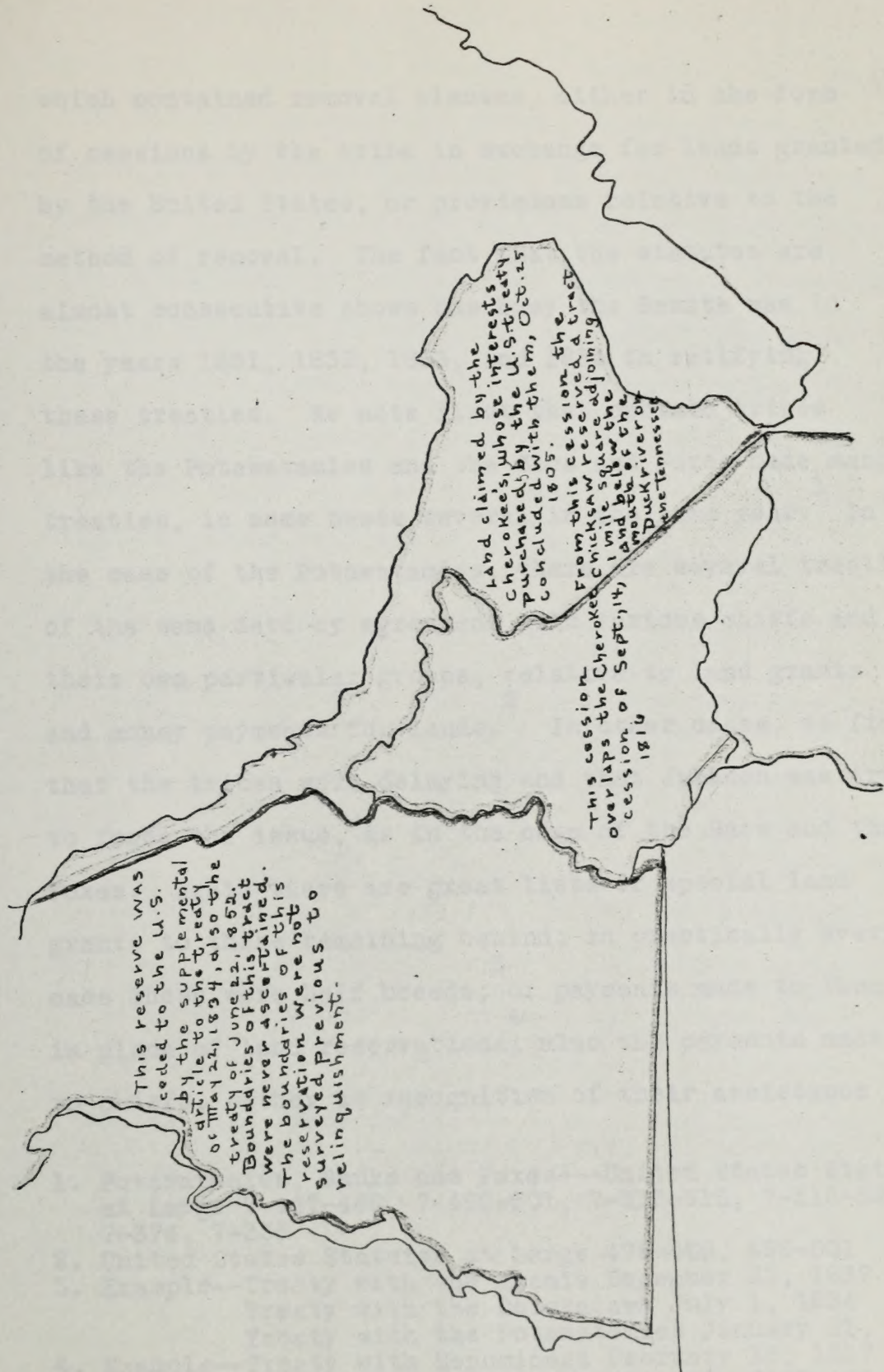


Footnote 1 of pages <sup>291 and</sup> 292 (continued)

With the Potawatamies proclaimed June 4, 1836  
Kappler II 450 United States Statutes at Large 7-490  
With the Ottawas proclaimed May 27, 1836  
Kappler II 450-456 United States Statutes at Large 7-491  
With the Potawatamies proclaimed June 4, 1836  
Kappler II 457 United States Statutes at Large 7-498  
With the Potawatamies proclaimed May 25, 1836  
Kappler II 457 United States Statutes at Large 7-499  
With the Potawatamies proclaimed May 25, 1836  
Kappler II 458 United States Statutes at Large 7-500  
With the Potawatamies proclaimed May 25, 1836  
Kappler II 459 United States Statutes at Large 7-501  
With the Wyandots proclaimed May 16, 1836  
Kappler II 460-461 United States Statutes at Large 7-502  
With the Chippewas proclaimed May 25, 1836  
Kappler II 461 United States Statutes at Large 7-503  
With the Potawatamies proclaimed February 18, 1837  
Kappler II 462 United States Statutes at Large 7-505  
With the Menominees proclaimed February 15, 1837  
Kappler II 463-466 United States Statutes at Large 7-506  
With the Sioux proclaimed February 15, 1837  
Kappler II 466 United States Statutes at Large 7-510  
With the Iowas proclaimed February 15, 1837  
Kappler II 468-470 United States Statutes at Large 7-511  
With the Potawatamies proclaimed February 18, 1837  
Kappler II 470 United States Statutes at Large 7-513  
With the Potawatamies proclaimed February 16, 1837  
Kappler II 471 United States Statutes at Large 7-514  
With the Potawatamies proclaimed February 18, 1837  
Kappler II 471-472 United States Statutes at Large 7-515  
With the Sauks and Foxes proclaimed February 15, 1837  
Kappler II 473 United States Statutes at Large 7-516  
With the Sauks and Foxes proclaimed February 27, 1837  
Kappler II 474-475 United States Statutes at Large 7-517  
With the Sauks and Foxes proclaimed December 13, 1837  
Kappler II 476-478 United States Statutes at Large 7-520  
With the Otos proclaimed February 10, 1837  
Kappler II 479-481 United States Statutes at Large 7-524  
With the Sioux proclaimed February 18, 1837  
Kappler II 481-482 United States Statutes at Large 7-527







This reserve was ceded to the U.S. by the supplemental article to the Treaty of May 22, 1834, also the Treaty of June 22, 1852. Boundaries of this tract were never ascertained. The boundaries of this reservation were not surveyed previous to relinquishment.

Land claimed by the Cherokee, whose interests purchased by the U.S. Treaty concluded with them, Oct. 25 1805.

From this cession the Chickasaw reserved a tract of 1 mile square adjoining and below the mouth of the Duck River in Tennessee

This cession overlaps the Cherokee cession of Sept. 14, 1816

Adopted and Compiled by Royce and Cession.

Parts of Tennessee and Alabama.





which contained removal clauses, either in the form of cessions by the tribe in exchange for lands granted by the United States, or provisions relative to the method of removal. The fact that the statutes are almost consecutive shows how busy the Senate was in the years 1831, 1832, 1833, and 1834 in ratifying these treaties. We note first that certain tribes like the Potawatamies and the Sacs and Foxes made many<sup>1</sup> treaties, in some cases several in the same year. In the case of the Potawatamies, there are several treaties of the same date by agreement with various chiefs and their own particular groups, relative to land grants<sup>2</sup> and money payments for lands. In other cases, we find that the tribes were delaying and that Jackson was trying to force the issue, as in the case of the Sacs and the Foxes. Again there are great lists of special land grants to those remaining behind; in practically every<sup>3</sup> case these were half breeds; or payments made to them<sup>4</sup> in place of land reservations; also the payments made to chiefs, either as recognition of their assistance

1. Potawatamies, Sauks and Foxes---United States Statutes at Large 7-467-469, 7-498-501, 7-513-515, 7-516-520, 7-374, 7-338
2. United States Statutes at Large 478-469, 498-501
3. Example--Treaty with the Miamis December 23, 1837  
Treaty with the Chickasaws July 1, 1834  
Treaty with the Potawatamies January 21, 1833
4. Example--Treaty with Menominees February 15, 1837  
Treaty with Chippewas February 21, 1835 \$175,000 in all  
Treaty with Potawatamies June 21, 1833  
also other treaties Kappler II 404





given in making the treaties, or as a semi-bribe to<sup>1</sup>  
get their support for removal. Naturally, too, there  
are increased payments in money, goods and annuities<sup>2</sup>  
as in former administrations. In several cases the<sup>3</sup>  
Indians reserve the right to hunt on the lands ceded,<sup>4</sup>  
(although there in one instance where it is forbidden).  
Provisions for the furnishing of blacksmiths' tools<sup>5</sup>  
and domestic animals are common and reservations for  
school lands likewise appear in practically all of the  
treaties. Provision is also made for those Indians who<sup>6</sup>  
wish to become citizens of states.

1. Example--With the Ottawas May 27, 1836 page 455 list of payments to various classes of chiefs.  
With the Chippewas 7-442
2. With the Chippewas February 26, 1829 Article 4 Kappler II "in consideration of the liberal establishment of the boundaries as herein provided for, the Indians' goods to the amount of \$5682, payment for which shall be made by the United States "
3. Kappler II 299 With the Chippewas January 2, 1830 Article VII
4. Kappler 347 Article XI Winnebagoes
5. Kappler II 301 Article III Treaty with Winnebagoes January 2, 1830
6. Kappler II Article XIV "And it is further agreed between the parties, that the said United States shall provide and support three blacksmiths' shops, with the necessary tools, iron and steel, for the use of the said Indians, for the term of thirty years; one at Prairie du Chien, one at Fort Winnebago, and one on the waters of Rock River, and furthermore the said United States engage to furnish for the use of the said Indians, two yoke of oxen, one cart, and the services of a man at the portage of the Wisconsin and Fox Rivers....."





In the Cherokee Treaty of 1828, is recorded the first recognition of the fact that the lands offered in exchange are not all that they should be.<sup>1</sup> "It is further agreed, that the United States in consideration of the inconvenience and trouble attending the removal, and on account of the reduced value of a great portion of the lands herein ceded to the Cherokees, as compared with those in Arkansas which were made theirs by the Treaty of 1817, and the convention of 1819, will pay to the Cherokees, immediately after their removal, which shall be within fourteen months of this agreement, the sum of \$50,000."

There are several cases of recognition of the rights of a tribe to self government, the first noteworthy one being the case of the Choctaws in February 24, 1831.<sup>2</sup> It is too bad more instances of this were not really put into effect. In this treaty it is promised "that the United States shall forever secure said Choctaw Nation from, and against, all laws except such as from time to time may be enacted in their own National Councils, not inconsistent with the Constitution, Treaties, and Laws of the United States." In this same treaty, we also find the first recognition of the Indians to petition

1 . Kappler II 288-293

2 . Kappler II 311 Article IV note also Creeks Article XIV United States Statutes at Large 7-366



In the Chinese Treaty of 1842, it was stipulated that  
the recognition of the fact that the Chinese  
in exchange are not all that they seemed to be.  
Further agreed, that the United States in consideration  
of the inconvenience and trouble attending the removal  
and on account of the reduced value of a good portion  
of the land herein ceded to the Government, as compared  
with those in Arkansas which were made lands by the  
Treaty of 1817, and the Government of 1819, will pay to  
the Chinese, immediately after their removal, a sum  
shall be within fourteen months of this agreement, the  
sum of \$20,000.

There are several cases of recognition of the  
rights of a tribe in self government, the first being  
worthy and being the case of the Cherokee in 1790, 1801,  
1802. It is for such cases instances of such cases are  
readily put into effect. In this treaty it is provided  
that the United States shall forever remain with the  
Nation from, and against, all laws enacted since the  
time to time may be enacted in their own territory, and  
not inconsistent with the Constitution, Treaties, and  
laws of the United States. In this case, however, we  
also find the first recognition of the Indians as people.

1. Chapter II, 47-48  
2. Chapter II, 49-50  
United States Bureau of Indian Affairs

the removal of an unsatisfactory United States agent provided that the President was satisfied that sufficient cause was shown.<sup>1</sup> There is also a most unusual condition in the Choctaw Treaty of 1831 whereby a few of the Indians who fought with General Wayne are to be rewarded by an annuity of \$250 a year.<sup>2</sup>

In addition, the Choctaws asked for a delegate to Congress.<sup>3</sup> The commissioners made no promise but submitted the question to Congress for decision. Needless to say, the Choctaw Indians were not thus recognized. In the treaty of April 4, 1832,<sup>4</sup> there is a clause whereby the United States promised to remove would-be pre-emptioners; agreement being made that "All intruders upon the country hereby ceded shall be removed therefrom in the same manner as intruders may be removed from other public land until the country is surveyed...Such persons may remain 'till their crops are gathered."

In view of what Georgia and Andrew Jackson were trying to do, and did do to the Creeks, Article XII of the treaty of April 4, 1832 is interesting.<sup>5</sup> "The United States are desirous that the Creeks should remove to

1. Kappler II 313 Article XIII
2. Ibid 315 Article XX cf. Cherokees 7-478 Article VII
3. Choctaws Article XXII February 4, 1831
4. Kappler II 341 Article V
5. Kappler II 343



the removal of an unqualified United States citizen  
provided that the President was satisfied that  
sufficient cause was shown. There is also a  
usual condition in the Executive Order of 1891  
a few of the Indians who fought with General Sherman  
are to be rewarded by an annuity of \$100 a year.  
In addition, the Government made for a large  
Congress. The Government made no provision for  
settled the question of the Indians. The Indian  
to say, the Indian Indians were not then recognized.  
In the treaty of April 4, 1851, there is a clause  
by the United States provided to remove some of the  
employment; agreement being made with the Indians  
upon the country hereby which must be removed  
in the same manner as Indians and be removed from  
public land while the country is surveyed. Such  
any results will their state and territory.  
is view of what Congress has done for the  
trying to do, and did it to the Indians. Article III of  
the treaty of April 4, 1851 is as follows: The United  
States are hereby to remove some of the

1. Chapter II Article III
2. Article III of the Treaty of April 4, 1851
3. Chapter II Article III
4. Chapter II Article III
5. Chapter II Article III

the country west of the Mississippi, and join their countrymen there; and for this purpose it is agreed that as fast as the Creeks are prepared to emigrate, they shall be removed at the expense of the United States.....Provided, however, that this article shall not be construed so as to compel any Creek Indian to emigrate, but they shall be free to go or to stay, as they please." (Cf. Section IV Jackson)

We find one case of unusual reward made to the Indians for pointing out to the United States agent the location of minerals "supposed by the said tribe to be of a metal more valuable than lead or iron."<sup>1</sup>

The Chickasaws showed the growth of a business sense among the Indians in asking for a guarantee vs. combination by preemptioners whereby the price of the lands might be kept down below the usual market price through purchase in big lots.<sup>2</sup> An agreement was therefore made that if after five years, all the lands were not sold, provision was then to be made for the President to reduce the price.<sup>3</sup> In comparison with the reported trials of the Ex-Empress of Austria we note that

1. Ibid 350 Article XI Sauks and Foxes. United States Statutes at Large 7-374
2. United States Statutes at Large 7-381 Article VII
3. Kappler II 359 Article XIII





Queen Puc-cann-1 of the Chickasaws had an income of fifty dollars a year settled upon her to support her in her old age.<sup>1</sup> As evidence of the advance in civilization of the Chickasaw nation, we note their request in the Treaty of October 22, 1832<sup>2</sup> for a mail route passing each way through their lands, once a week. In their treaty of July 1, 1834 is recorded the first right noted of an Indian woman to dower rights in land held by her husband whereby he could not alienate the land<sup>3</sup> without her consent.

In no way did Van Buren show himself more a follower and satellite of Jackson than in the case of removal. Both Jackson and Van Buren inherited the trouble with the Seminoles which was not settled before the latter left the Presidency. Van Buren said of Jackson's removal policy "that great work was emphatically the fruit of his exertions. It was his judgment, his experience, his indomitable vigor and unrelenting activity that secured success. There was no measure in the whole course of

1. Ibid 360 Article XII 1832
2. Kappler II 363 I was not able to find whether or not this first case of R.F.D. was put into effect at this time.
3. Article VII "Where any white man before the date hereof has married an Indian woman, the reservation he may be entitled to under this treaty, she being alive shall be in her name, and no right of alienation of the same shall pertain to the husband unless he divest her of the title....by the acknowledgment of the wife which may be taken before the Agent, and certified by him, that she consents to the sale fully."







This tract was surveyed by James Craig under a homestead instruction dated June 2, 1835.

Mayville  
Astoria.

1530

PLATE ②  
LIBERTY ②  
RICHMOND

967017

14. 10. 1977

② LANCET

2213

For concurrent  
sessions of this Borneo  
Tractsee creates with  
Saur and Fox, Aug. 4, 1924

1892

Art. 2 provides that general boundary between U.S. and Mexico shall be as follows:

Beginning at a point opposite the Mission of

directly to the river, thence  
across the river, to a  
distance of 30 miles,  
from the mouth and down  
the river to the Miss. Riv. Thence  
up the Miss. to the mouth of the  
Ouisconsin Riv. and up the same  
to a point, which shall be 60 miles.  
Indirectly, to a point where  
For Riv. leaves Sagawagan Riv.;  
thence down the same to Miss.  
And said tribes shall relinquish  
to us, all claims to lands within  
said boundary.

DIFFERSON

15304 Columbia

Hermitage

B-11V2

1803

Ernste v. d. G.

May 6/18 Hill

KENTUCKY

370

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his administration of which he was more exclusively<sup>1</sup> the author than this." Van Buren's biographer<sup>2</sup> defends both Jackson's policy with regard to the Seminoles and Van Buren's on the ground that removal was wise and necessary because tribal and independent governments by "nomadic" savages could not be tolerated.<sup>3</sup> "Whatever the theoretical rights of property in land, no civilized race near vast areas of land fit for tillage of a crowding population had ever permitted them to remain mere hunting grounds for savages."

In an attempt to carry out the removal law, Van Buren tried to persuade the Choctaws, Creeks, and Cherokees to move to lands in Kansas in exchange for their lands in Georgia. Jackson had left him to complete the work of removal in their case as well as that of the Seminoles. Van Buren promised the Indians not to disturb them if they moved to Arkansas, assuring them that these lands were not suitable for white occupation.<sup>4</sup>

1. Richardson II 556 Special Message February 23, 1831
2. Shepard (American Statesmen Series) Van Buren, Time, however, had vindicated the justice as well as the policy of removal and the establishment of the Indian territory.
3. "The removal of the Indian tribes, who according to previous treaties and acts of legislation were to find new places of abode beyond the Mississippi, was conducted by the general government with tenderness and humanity; and more than 40,000 of these emigrants found on their new and more fertile territory ample provision for their comfort, their pursuit of agriculture and their civilization and instruction." Bancroft Van Buren 226
4. Ellis 520 Paxson 281





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In 1832, 1833, 1834 the Seminoles had agreed to go west on terms similar to the general conditions granted to other tribes as reported in earlier treaties. One third were to remove in 1833, another third in 1834, and the last group in 1835. They kept finding excuses for delay much to Jackson's dissatisfaction and finally, when they feared coercion from him, had risen under a half breed named Powell or Osceola, and had massacred<sup>1</sup> the Major Wade and over a hundred soldiers. Then followed a series of butcheries and outrages upon whites of which we have heard much. Osceola was captured under a flag of truce on the pretext that he had broken his parole.<sup>2</sup> Although Van Buren's administration spent<sup>3</sup> \$14,000,000 to put down only 2,000 warriors as estimated by Van Buren himself, the war was not concluded before he left office, if it ever was really completed, it being allowed to come gradually to a stop; negotiations having been carried on meantime; and the Seminoles giving trouble for years in small groups even after peace<sup>4</sup> was supposedly declared.

1. Shepard Van Buren 313
2. Child 13
3. Child 13 Shepard Van Buren 313
4. Last Treaty August 16, 1866  
United States Statutes II 910-916





In his messages, one gets the idea that Van Buren and the government are on the defensive relative to the Indians because he keeps emphasizing the justice and expediency of removal. We also feel that some of his speeches, notably that of 1838 are campaign propaganda. His First Annual Message was significant because it showed so well what his attitude on the Indian question was to be.<sup>1</sup> "If they be removed, they can be protected from those associations and evil practices which exert so pernicious and destructive influence over their destinies. They can be induced to labor and to acquire property and its acquisition will inspire them with a feeling of independence. Their minds can be cultivated and they can be taught the value of salutary and uniform laws and be made sensible of the blessings of free government and capable of enjoying its advantages. In the possession of property and knowledge and good government, free to give what direction they please to their labor and sharers in that legislation by which their persons and the profits of their lands are to be protected and secured. They will have an ever present

1. December 5, 1837 Richardson III 392





conviction of the importance of union and peace among themselves and of the preservation of amicable relations with us."

In 1838, Van Buren sent General Scott to Georgia fearing disturbances there because the Cherokees were giving trouble, not being satisfied with the way Article I of the treaty made December 29, 1835 was<sup>1</sup> being carried out. The government had left too many<sup>2</sup> loop holes to satisfy the Indians. Governor Gilmer

1. Kappler II 440 United States Statutes at Large 7-478 Article I. "The Cherokee nation hereby cede, relinquish and convey to the United States all lands owned, claimed or possessed by them west of the Mississippi river and hereby release all their claims upon the United States for spoiliations of every kind for and in consideration of the sum of \$5,000,000 to be expended, paid, and invested in the manner stipulated and agreed upon in the following articles. But the question has arisen between the commissioners and the Cherokees whether the Senate in their resolution by which they advised "that a sum not exceeding \$500,000 be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river have included and made any allowance or consideration for claims for spoiliations---it is therefore agreed on the part of the United States that this question shall be again submitted to the Senate for their consideration and decision and if no allowance was made for spoiliations that then an additional sum of \$300,000 be allowed for the same."
2. Kappler II 440 United States Statutes at Large 7-478 Article I. "The Cherokee nation hereby cede and convey to the United States all the lands owned, claimed, or possessed by them east of the Mississippi river, and hereby release all their claims upon the United States for spoiliations of every kind for and in consideration of the sum of \$5,000,000 to be expended, paid and invested in the manner stipulated and agreed upon in the following articles, but as a question has arisen between the commissioners and the Cherokees whether the Senate in their resolution by which they advised "that a sum not exceeding \$5,000,000 be





threatened trouble unless the work of expulsion of the Cherokees was immediately begun which is reminiscent of Troup's previous attitude. The Governor issued a proclamation requesting the Indians to assemble at certain points from which they could be sent to Arkansas. They obeyed and in a short time practically the whole nation was removed.<sup>1</sup> With regard to the removal

Footnote 1 of Page 305 (continued)

paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river" have included and made any allowance or consideration for claims for spoiliations it is therefore agreed on the part of the United States that this question shall be again submitted to the Senate for their consideration and decision and if no allowance was made for spoiliations that then an additional sum of \$300,000 should be allowed for the same."

1. Drake IV 101 In his address of December 1838 Van Buren thus reported the Cherokee removal. "The measures authorized by Congress at the last session with a view to the long standing controversy with them, have had the happiest effects. By an agreement concluded with them by the commanding general in that country, who has performed the duties assigned to him on the occasion with commendable energy and humanity, their removal has been principally under the conduct of their new chiefs and they have emigrated without any apparent reluctance." Richardson III 497.





of the Creeks, Van Buren reported that "The removal also of the entire Creek Nation with the exception of a small number of fugitives amongst the Seminoles in Florida" was accomplished; and he looked for a speedy completion of the removal of the Chickasaws, Choctaws, Potawatamies,<sup>1</sup> Ottawas, and Chippewas.

In his second annual address, Van Buren defended the government against the criticism of its treatment<sup>2</sup> of the Indians by stating that a mixed occupancy of the same territory by the white and the red men is incompatible with the safety and happiness of either.... "The bitter fruit of every attempt, heretofore, to overcome the barriers interposed by nature have only been destruction both physical and moral to the Indians." He admitted that in the early settlement of the country there were instances of fraud and oppression with respect to the Indians and their rights, but he added "No such offense can, however, be justly charged upon the government since it became free to pursue its own course. Its dealings with the Indian tribes have been just and friendly throughout, its efforts for their civilization constant, and directed by the best feelings of humanity, its watch-

1. Richardson III 498
2. Richardson III 498





fulness in protecting them from individual frauds un-  
remitting."<sup>1</sup>

It is an interesting fact that although he was so strong an advocate of removal, Van Buren said nothing about an Indian state,<sup>2</sup> although he had recommended in his first two annual addresses, the establishment of some simple form of government for these emigrant tribes.<sup>3</sup> In the same speech of 1838 above referred to, he advocated a remedial policy saying: "the principles of which were settled more than thirty years ago under the administration of Mr. Jefferson, consists in an extinction for a fair consideration of the title to all lands still occupied by the Indians within the states and territories of the United States; their removal to the country west of the Mississippi, much more extensive and much better adapted to their condition than that on which they then resided."<sup>4</sup>

On December 31, 1838, Van Buren likewise renewed his recommendation for the adoption of the Secretary of War's plan for the defense of the western frontier, saying, "the preservation of the lives and property of our fellow citizens who are settled upon that border

1. Ibid 498-499
2. Abel Indian State 98
3. Richardson III 391
4. Richardson III 499 Otis 79





country, as well as the existence of the population which might be tempted by our want of preparation to rush on their own destruction and attack the white settlements, all seem to require that this subject should be acted upon without delay and the War Department authorized to place that country in a state of complete defense against any assaults from the numerous and warlike tribes which are congregated on the border."<sup>1</sup> This rather suggests that Indian war is ready to break out and there is danger of uprisings all along the border; and yet in this same Second Annual Message we find an absolute contradiction to this in, "The condition of the tribes which occupy the country set apart for them in the West is highly prosperous and encourages the hope of their early civilization. The greater number are small agriculturists, living in comfort upon the produce of their farms. The recent emigrants, although they have in some instances removed reluctantly, have really acquiesced in their unavoidable destiny. They have found at once a recompense for past sufferings and an incentive to industrious habits in the abundance of comforts around them. There is reason to believe that all these tribes are friendly in their

1. <sup>Rish.</sup> Ibid 497





feelings toward the United States." If the latter case were true, why did Van Buren talk so much about the situation and why did he want the army to be increased to protect both the border tribes and the citizens! It certainly looks as if Van Buren were trying to cover up something, and that conditions were more unpleasant than he was willing to admit. At any rate, it would seem as if he were playing for political support.

In his last annual address, December 5, 1840,<sup>1</sup> Van Buren told how busy the troops had been in carrying out removal, throughout his whole administration. He reported to Congress that "Since the spring of 1837 more than 40,000 Indians have been removed to their new homes west of the Mississippi and I am happy to add that all accounts concur in representing the result of the measure as eminently beneficial to that people." Some of these removals were to complete the work of Jackson, others in accordance with his own treaties.

Van Buren concluded eighteen treaties with the Indians, all of which carried out the removal plans

1. Richardson III 616





and methods of Jackson, as has already been suggested,<sup>1</sup>

1. With the Chippewas proclaimed June 13, 1838  
Kappler II 491-493 United States Statutes at Large 7-536
- With the Sioux proclaimed June 15, 1838  
Kappler II 493-494 United States Statutes at Large 7-538
- With the Sauks and Foxes proclaimed February 21, 1838  
Kappler II 494-496 United States Statutes at Large 7-540
- With the Yankton Sioux proclaimed February 21, 1838  
Kappler II 496-497 United States Statutes at Large 7-542
- With the Sauks and Foxes proclaimed February 21, 1838  
Kappler II 497-498 United States Statutes at Large 7-543
- With the Winnebagoes proclaimed June 15, 1838  
Kappler II 498-500 United States Statutes at Large 7-544
- With the Iowas proclaimed February 21, 1838  
Kappler II 500-501 United States Statutes at Large 7-547
- With the Chippewas proclaimed July 2, 1838  
Kappler II 501-502 United States Statutes at Large 7-547
- With the New York Indians proclaimed April 4, 1840  
Kappler II 502-516 United States Statutes at Large 7-550
- With the Chippewas proclaimed July 2, 1838  
Kappler II 516-517 United States Statutes at Large 7-565
- With the Oneidas (New York) proclaimed May 17, 1838  
Kappler II 517-518 United States Statutes at Large 7-566
- With the Iowas proclaimed March 2, 1839  
Kappler II 518-519 United States Statutes at Large 7-568
- With the Miamis proclaimed February 18, 1839  
Kappler II 519-524 United States Statutes at Large 7-569
- With the Creeks proclaimed March 2, 1839  
Kappler II 524-525 United States Statutes at Large 7-574
- With the Osages proclaimed March 2, 1839  
Kappler II 525-528 United States Statutes at Large 7-576
- With the Chippewas proclaimed March 2, 1839  
Kappler II 528-529 United States Statutes at Large 7-578
- With the Stockbridges and Miamis proclaimed May 16, 1840  
Kappler II 529-531 United States Statutes at Large 7-580
- With the Miamis proclaimed June 7, 1841  
Kappler II 531 United States Statutes at Large 7-582





but which showed a wide variety of other provisions.

Usually, these removals were to be completed within

<sup>1</sup>  
two years. In several cases, there was to be preliminary investigation by exploring parties, as in Monroe's and Jackson's administration; in some instances, the United States was to defray the expenses, in others, the Indians <sup>2</sup> were to pay for it themselves. The obligation of the United

1. Example -Potawatamies February 18, 1837 Article III Kappler II 420 United States Statutes at Large 7-513. "The above named chiefs and headmen and their band agree to remove to the country west of the Mississippi river, provided for the Potawatamie Nation by the United States within three years:"

Sacs and Foxes February 27, 1837 Article VI "The said confederated tribes of Sacs and Foxes February 27, 1837 Article VI "The said confederated tribes of Sac and Fox Indians hereby stipulate and agree to remove from off the lands herein the first article of this treaty ceded to the United States, by the first day of November next ensuing the date thereof...."

2. With Stockbridge and Munsee Indians, May 16, 1840 Article VI Kappler II 530. "It is agreed that an exploring party not exceeding three in number may visit the country west, if the Indians shall consider it necessary and that whenever those who are desirous of emigrating shall express their wish to that effect, the United States will defray the expenses of their removal west of the Mississippi and furnish them with subsistence for one year after their arrival at their new homes, the expenses of the exploring party to be born by the emigrants."

With the Miamis February 8, 1839 Article XI Kappler II 521. "It is further stipulated, that the United States will defray the expenses of a deportation of six chiefs or headmen, to explore the country to be assigned to said tribe, west of the Mississippi river. Said deportation to be selected by the said tribe in general council."





States is more apparent in the case of important tribes, or those holding most important land, or both. According to these treaties, annuities and money payments to Indians tend to run even higher than those of Jackson's administration. The largest and most inclusive payments were made to the Sioux by the treaty of June 15, 1838. These may be outlined as follows:

- \$300,000 invested by President's order in state stocks  
Not less than 5% interest to be paid  
1/3 as President directed  
The rest in specie and for purposes designated by the tribe
- \$110,000 to half breeds (up to  $\frac{1}{4}$  Sioux blood)
- \$ 90,000 to pay debts of Sioux
- \$ 10,000 in goods annually for twenty years, delivered at the expense of the United States
- 8,350 for medicine, agricultural implements, stock and to support a physician; farmers, blacksmiths, etc. 1

We should note in these cases, and in others to a less degree, the fact that the government was becoming a sort of trust company for the Indians; as well as the large sums controlled by these groups as tribes, sometimes as high as \$5,000,000.

The usual recognition of the rights of half breeds is evident as well as those of widows and wives of chiefs. The land grants to these half breeds in fee simple are

1. See also Winnebagoes June 15, 1838 Kappler III 99  
See also Chippewas June 15, 1838 Kappler II 492
2. See also Cherokees December 29, 1850 Kappler II 440





most significant in the treaty with the Miamis of  
February 18, 1839<sup>1</sup>. The usual amount paid to interpreters  
for tribes, generally half breeds, of the tribe itself  
is \$100 in all; however, in the case of the Iowas March 2,  
1839<sup>2</sup> there was an individual annuity of \$50 a year. Evident-  
ly this tribe was satisfied with the treaty which the inter-  
preter had helped to secure.

1. Kappler II 519-524 United States Statutes at Large 7-569  
Note---9 sections to John B. Richardville  
Kappler 523 to O'zah-shin-quah and wife of Bromillette,  
daughters of the "Deaf Man" as tenants in common, one  
section of land on the Missinerva river to include the  
improvements where they now live.  
Chippewas June 15, 1878 Article 3 Kappler II 492 "The  
sum of \$100,000 shall be paid by the United States to  
the half breeds of the Chippewa nation, under the direc-  
tion of the President...."
2. United States Statutes at Large 7-568 Article 2nd---4  
"To pay out of said income to Jeffrey Derwin, inter-  
preter of said tribe for services rendered, the sum  
of \$50 annually during his natural life; the balance  
of the said income shall be delivered, at the cost of  
the United States, to said tribe of Ioway Indians in  
money or merchandise, at their own discretion, at  
such time and place as the President may direct,  
Provided always that the payment shall be made each  
year in the month of October."





Where we find the United States up to this time occasionally assuming the debts owed by the Indians, generally in the form of damages to the whites or non payments for goods furnished by traders, in this administration the government in practically every treaty is assuming full payments for the above as well as for the Indians' debts.<sup>1</sup> There are fewer instances of the United States abrogating parts of treaties or taking back the promise to pay certain amounts but they are still in evidence.<sup>2</sup>

In this group of treaties are the following unique points:- The Kiowas in the Treaty of February 21, 1838,<sup>3</sup> were to pay for injuries to the United States traders.

1. Miamis February 8, 1839 Article VI Kappler II 520 "It is further stipulated that the sum of \$150,000 out of the amount agreed to be paid said tribe shall be set apart for the payment of the claims under the provisions of the fourth and fifth articles of this treaty, as well as for the payment of any balance ascertained to be due from such tribe by the investigation under the provisions of the treaty of 1834."  
With the Sioux June 15, 1838 Kappler II 494 Article II 3. "To apply the sum of \$90,000 to the payment of just debts to the Sioux Indians interested in the lands herewith ceded."  
With the Winnebagoes June 15, 1838 Article 4 \$200,000 Kappler II 499
2. With the Chippewas July 2, 1838 Article 3 Kappler II 501 United States took back money advance promised by Article III Treaty of January 14, 1837 and abrogated part of it (article IV)
3. Kappler II 490 Article V. "The Kioway, Ka-ta-ka, and Ta-wa-ka-ro nations and their associated bands or tribes of Indians agree and bind themselves to pay full amount for any injury their people may do to the goods or other property of such traders as the President of the United States may place near to their settlements or hunting grounds for the purpose of trading with them."





In this treaty, the tribe likewise agreed not to interrupt "their friendly relations with the Republics of Mexico and Texas"; it being distinctly understood that the Government of the United States desired peace between the Indians and these Republics.<sup>1</sup> This is the first case of the kind. There is also one unusual case where these Indians indicate that they were apparently satisfied with their agents.<sup>2</sup>

By the treaty of March 3, 1839 with the Iowas, the United States promised to erect ten houses at such places as the Indians directed.<sup>3</sup> This becomes more common in the later

1. Kappler II 490 Article IX "The Kioway, Ka-ta-ka, and Ta-wa-ka-ro nations and their associated bands or tribes of Indians, agree, that at their entering into this treaty shall in no respect interrupt their friendly relations with the Republics of Mexico and Texas, where they all frequently hunt and the Kioway, Ka-ta-ka, and Ta-wa-ka-ro nations sometimes visit; and it is distinctly understood that the Government of the United States desire that perfect peace shall exist between the nations or tribes named in this article, and the said Republics."
2. With the Chippewas June 15, 1838 Article 3..."It is the wish of the Indians that their two sub agents Daniel P. Bushnell and Miles M. Vineyard superintend the distribution of this money among their half breed relations."
3. Kappler II 519 Article 3..."ten houses....of the following description (viz) each house to be 10 feet high from sill to top plate, 18 x 20 feet in the clear; the roof to be well sheeted and shingled, the gable ends to be weather boarded, a good floor above and below, one door and two windows complete, one chimney of stone or brick, and the whole house to be underpined."





treaties. We also find some slight and unusual consideration in the Creek Treaty of March 2, 1839 for the sufferings<sup>1</sup> of hostile Creeks removed forcibly to the Creek country, one of the few instances of the kind prior to Fillmore's time. In the Osage Treaty of March 2, 1839 payments were agreed upon for Clermont's band to the amount of \$3000, withheld by the agent of the government in 1829. In every case, the expense of the treaty negotiations was to be met by the United States, including presents to the Chiefs, most commonly gifts of horses. In the Sac and Fox Treaty of February 21, 1838 there is an allowance of \$775 per annum to be paid to the Indians "for the support of a teacher and the incidental<sup>2</sup> expenses of a school," an unusual condition at this time but one which became most important and most common in later treaties between this time and that of the Civil War. On June 15, 1838 the Chippewas were allowed the right to hunt,<sup>3</sup> fish, and gather wild rice on the lands ceded by them.

1. Kappler II 525 Article 6 "In consideration of the suffering condition of about 2500 of the Creek nation who were removed to this country as hostiles....and the representatives of the chiefs of the nation, that their extreme poverty has, and will cause them to commit depredations on their neighbors, it is therefore agreed on the part of the United States that the Creek Indians referred to in this article shall receive \$10,000 in stock animals for one year...."
2. Kappler II 498 Article II 3
3. Kappler II 492 Article 5 The first of the kind.





1

In another Chippewa treaty proclaimed a few days later,<sup>1</sup> it was agreed that the sum of fifty cents per acre should be retained out of every acre of land ceded by the tribe, in the earlier treaty, "as an indemnification for the location to be furnished for their future permanent residence and to constitute a fund for emigrating thereto."

2

The treaty with the New York Indians needs separate discussion because of the fact that so many Indians were concerned and because of its unusual length and detailed provisions.<sup>2</sup> In the preamble it is stated that the Indians, feeling that they were being crowded off their lands by the increase of white settlements around them, had addressed a memorial to the President asking if the Government would consent to their removal west, if they could acquire land by gift or purchase from other western Indians; and if their right to such lands would be recognized and their annuities continued to be paid. With the approbation of the President, they had purchased lands from the Menomonies and Winnebagoes at Green Bay, Wisconsin. In February 1831, a treaty was concluded by which they were to receive 500,000 acres of land if all agreed to migrate. Some of the

1. Kappler II 501 United States Statutes at Large 7-547 Article V
2. Kappler II 502 United States Statutes at Large 7-555





Indians' friends, especially the Quakers of the Friends of Genesee Society, New York, Philadelphia and Baltimore, opposed this treaty on the grounds of irregularity and illegality. Van Buren answered their petitions to Congress in the third annual message of December 1839 by saying,<sup>1</sup> "The removal of the New York Indians is not only important to the tribes themselves, but to an interesting portion of western New York, and especially to the growing city of Buffalo, which is surrounded by lands occupied by the Seneca, to the Indians themselves, it presents the only prospect of preservation." Some Indians, however, felt that in order to prevent a second removal it was wise to remove directly to the Indian territory which they had decided "was the only permanent and peaceful home for all the Indians" and so had asked the President to give them lands there in place of the Green Bay ones, the treaty of April 4, 1840 being negotiated for that particular purpose. By it they were ceded lands west of the state of Missouri, all tribes not agreeing to remove forfeiting all interest in these lands.<sup>2</sup> According to the Preamble, the President was "anxious to promote peace, prosperity and happiness of his red children, and being determined to carry out the humane policy of the Government in removing the Indians from the

1. Richardson III 536

2. Kappler II 504 Article II and Article III





east to the west of the Mississippi, within the Indian territory, by bringing them to see and feel, by his justice and liberality that it is their true policy and for their interest to do so without delay."

While the divisions of the treaty relative to the separate tribes are almost identical and along the lines of removal treaties already mentioned, there are a few individual points that should be noted. In the special provisions for the St. Regis group, there is a land grant made to the minister of the tribe and his wife, the right being given them to alienate it if they so desire, a most unusual condition, not noted before. The Senecas made the provision that if on moving west they did not find sufficient timber on their new lands for their use, the President should add enough timber land to their grant to satisfy their needs. The Senecas held the land nearest to the city of Buffalo, their land being desired by the Ogden Land Company, who wanted to remove the Indians quickly for that reason. As part of the treaty provisions, Thomas L. Ogden and Joseph Fellows, assignees of the state of Massachusetts, purchased from the Seneca nation all title, interest, and claims they had to lands in New York state for the sum of

1. Kappler II 505 Article 9 "the following reservation of land shall be made to Reverend Eleazer Williams..which he claims in his own right and that of his wife, which he is to hold in fee simple, by patent from the President, with full power and authority to sell and dispose of the same....."
2. Kappler II 505 Article 10 See also Tuscaroras Kappler II 507 Article XV





\$202,000 to be paid to the United States who were to  
1 2 3  
administer the amount in behalf of the Senecas.

After the New York Indians case was settled the  
Seminoles were the only tribe which remained as a source  
of trouble to the government for years. According to the  
report of the President, 400 had migrated in 1836, 1500

1. Kappler II 503 Article X See also Tuscaroras Kappler II  
507 Article XIV

2. The census of the New York Indians taken before the treaty  
by the United States Commissioner Kappler II 508 shows

Senecas	2309
Onondagas	194
Cayugas	130
	<u>2633</u>

on Seneca Reservations

Onondagas at Onondaga	300
Tuscaroras	273
St. Regis in New York	300
Oneidas in New York	600
Oneidas at Green Bay	620
Stockbridges	219
Munsees	132
Brotertowns	360

3. The fifty-third Congress in 1894 directed an investigation  
of this same company to include, "the original history of  
the alleged claim of said company to any of the lands of  
the Seneca Nation of Indians in the state of New York, and  
any and all evidences of title." Kappler I 522





had migrated in 1837 and 1838 but about 2000 were still  
<sup>1</sup>  
left. In the words of Van Buren in his fourth Annual  
<sup>2</sup>  
Address, "the emigration of the Seminoles alone has been  
attended with serious difficulty and occasioned bloodshed;  
hostilities having been commenced by the Indians in Florida  
under the apprehension that they would be compelled by force  
to comply with their treaty stipulations. The execution  
of the Treaty of Payne's Landing, signed in 1832, but not  
<sup>3</sup>  
ratified until 1834, was postponed at the solicitation of  
the Indians until 1836, when they again renewed their agree-  
ment to remove peaceably to their new homes in the west." Then  
came the massacre of Major Dade's command, and the following  
Indian atrocities reported in all their details. United  
States troops were sent against them. According to Van  
Buren's report, the Seminoles were defeated in every engage-  
<sup>4</sup>  
ment, whereupon they dispersed through the country into the

1. Ibid 501

2. Ibid 612

3. Kappler II 544 Article I "The Seminole Indians relinquish all claim to the lands they at present occupy in the territory of Florida, and agree to emigrate to the country assigned to the Creeks, west of the Mississippi river; it being understood that an additional extent of territory, proportioned to their numbers, will be added to the Creek country, and that the Seminoles will be received as a constituent part of the Creek nation, and be readmitted to all the privileges as members of the tribe."

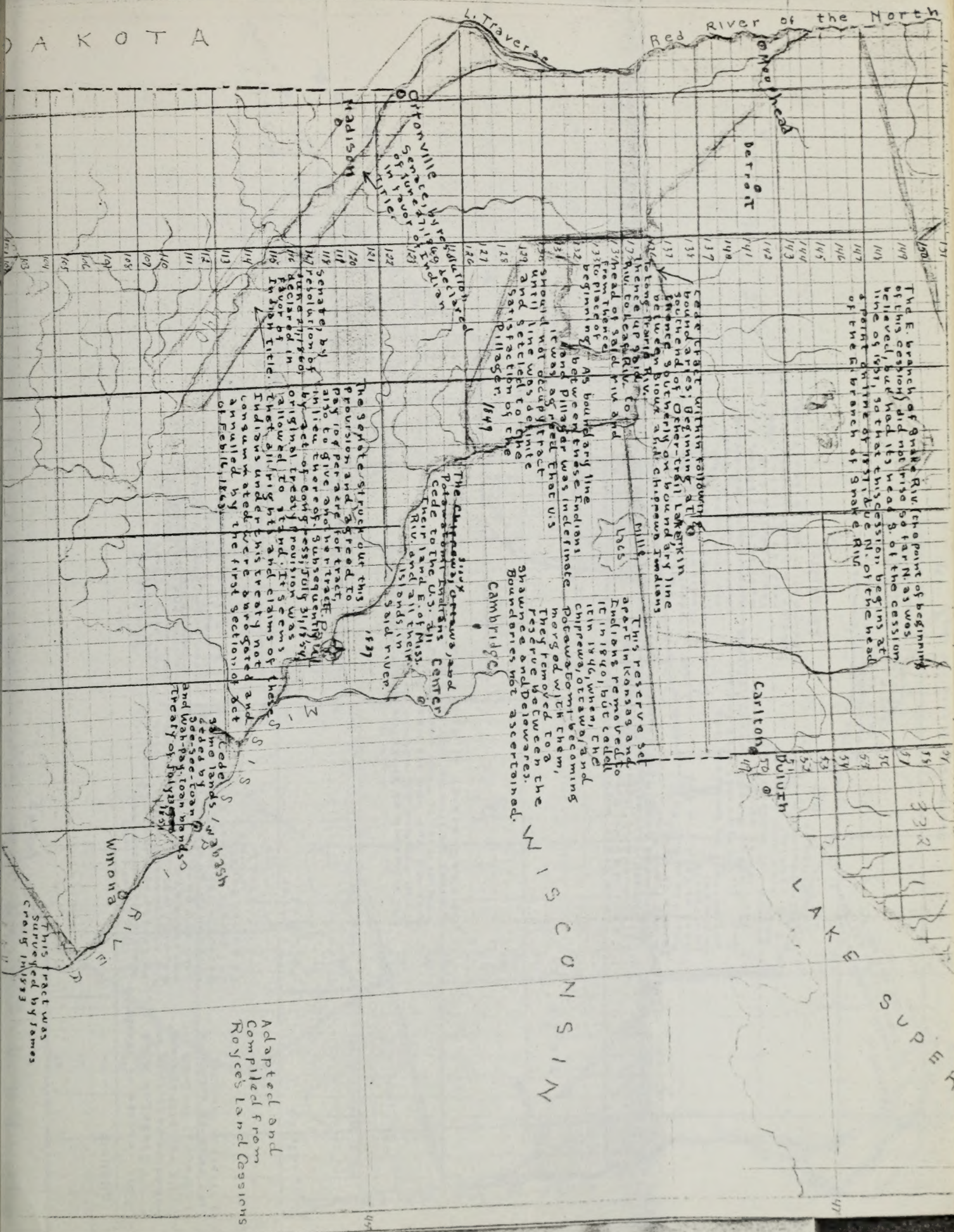
4. Richardson III 612







DAKOTA









BERITISH

This session is overlapped  
by the Stetson <sup>and</sup>  
the Peterson concession of Sept.  
1912 and also by a small  
corner of the Davis  
lake reserve established  
by treaty of Feb. 18, 1867.

This reserve was provided for by treaty of Sept. 30, 1857 and although partially selected and occupied its boundaries were never accurately defined. This was laid off so as to include Net Lake.

To be generated:

Lower Red L.

54403 pnc

The E. branch of Snake Riv. (the point of beginning of this cession) did not rise so far N. as was believed, but had its head S. of the cession line of 1831, so that this cession begins at a point on line of 1831 due N. of the head of the E. branch of Snake Riv.

Case 134  
boundaries, beginning at  
south end of Oyster Creek, Lakemill  
Inland, & thence by boundary line  
between blue & white Chinese Indians

This reserve of  
part incans and  
endings removed to  
it in 1840, but called  
it in 1840, when the  
chippewas, Ottawa, and  
Potawatomie becoming  
merged with them,  
They removed to a  
reserve between the  
Shawnee and Delaware  
boundaries not according

Cambridge

The Chippewa, Ottawa, and  
Potawatomi Indians  
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The genotype struck out this

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Wesley





everglades and swamps, becoming<sup>1</sup> "an enterprising, formidable, and ruthless banditti." The government had therefore no alternative, according to the President, but to continue military operations against them until they were expelled from Florida. So against a small band a \$14,000,000 war<sup>2</sup> was carried on. A Seminole delegation from those who had emigrated, came to persuade the Florida ones to migrate and the government hoped that the latter would be induced to leave the territory. But the Florida Seminoles were obstinate, and Van Buren left the Presidency long before peace came with them.<sup>3</sup>

We find Tyler making them the subject of part of every one of his messages. In his special message of June 1, 1841, he asked for \$200,000 to carry out later removal, and to correct abuses. One is forced to feel that most of this, too, went into the Seminole campaigns for in the first annual message of that year he reported<sup>4</sup> "The war with the Indian

1. Ibid 614

2. Ibid 501

3. This group was the group who had gone to settle as a result of the exploring party named in the Preamble of the April 12, 1834 treaty. Kappler II 344 "the Seminole Indians.....are willing that their confidential chiefs....accompanied by their agent Major Phagar and their faithful interpreter Abraham should be sent, at the expense of the United States....to examine the country assigned to the Creeks, west of the Mississippi river, and should they be satisfied with the character of that country, and of the favorable disposition of the Creeks to reunite with Seminoles as one people."

4. December 7, 1841





tribes in the peninsula of Florida has during the last summer and fall, been prosecuted with untiring activity and zeal. A summer campaign was resolved upon as the best mode of bringing it to a close;.....numbers have been captured and still greater numbers have surrendered and have been transported to join their brethren on the lands elsewhere allotted to them by the Government, and a strong hope is entertained that under the conduct of the gallant officer at the head of the troops in Florida, that troublesome and expensive war is destined to a speedy termination." The next spring he suggested a new kind of procedure since it was estimated that there were only about 240 left, only 80 of them warriors. "The further pursuit of these miserable beings by a large military force seems to be injudicious as well as unavailing." He therefore recommended a cessation of hostilities unless the Indians renewed them themselves. Meantime, the officer in charge had been "instructed to open communications with those yet remaining" in an attempt to finally persuade them to join their brethren in the west while directions had "been given for establishing a cordon or line of protection for the

1. In Florida in summer! Why, unless considered very important.
2. Special message May 10, 1842 Richardson IV 154
3. Richardson IV 155





inhabitants by the necessary number of troops." All this to handle eighty warriors! Tyler reported a long list of army promotions for gallantry and efficient service. On December 6 of the same year, he reported the termination of the war, although peace was not finally declared until July 18, 1845 when "in full satisfaction and discharge of all claims for property left or abandoned in Florida at the request of the United States, under promise of remuneration, \$1,000 per annum, in agricultural implements," were to be furnished the Seminoles for five years.

Van Buren was right in saying that "the removal of the Indians had been carried almost to a successful conclusion by the close of his administration. It certainly was successful as far as completeness was concerned although the methods were not always ethical as has been pointed out. The chiefs' good will had been bought, either because they had received presents especially gifts of horses, or because they felt that further opposition was useless. Removal had been carried out with few apparent collisions between the whites and Indians, due probably to the fact that the Indians had, in practically every case, been under military escort all the way. This constant presence of the mailed

1. 2nd Annual Message Richardson IV 198
2. United States Statutes at Large 9-321 Kappler II 550-552
3. Kappler II 551 Article VII
4. Richardson III 501,612





first of government, in itself, was a hardship to a proud race. Then, too, when the Indians reached their new lands, they found how much these lands had been overrated, and many were forced to revert to the nomad state, only to be severely punished if they trespassed on white lands while on the hunt.

Continued consolidation of Indian tribes within the territory which they had originally occupied, had been the usual procedure, in the early relations of the United States

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Government with the Indians. The latter were crowded into

1. Creeks Proclaimed August 13, 1790 Kappler II 25 United States Statutes at Large 7-35 Article IV.... "And in order to extinguish forever all claims of the Creek nation, or any part thereof, to any land being to the northward and eastward of the boundary herein described, it is hereby agreed.... the said United States will also cause the sum of \$1500 to be paid annually to the Creeks.
- Cherokees Proclaimed February 7, 1792 Article IV Kappler II 30 United States Statutes at Large 7-39... in order to extinguish forever all claims of the Cherokee nation... to any of the land lying to the right of the land above described."
- Wyandots Proclaimed December 2, 1795 Kappler II 40 United States Statutes at Large 7-68
- Creeks Proclaimed January 11, 1803 Kappler II 58 United States Statutes at Large 7-68
- Senecas Proclaimed January 12, 1803 Kappler II 60 United States Statutes at Large 7-70
- Choctaws Proclaimed January 20, 1803 Kappler II 63 United States Statutes at Large 7-73
- Kaskaskia Proclaimed December 23, 1803 Kappler II 68 United States Statutes at Large 7-78
- Delawares Proclaimed February 14, 1805 Kappler II 70 United States Statutes at Large 7-81
- Wyandots Proclaimed April 24, 1806 Kappler II 77 United States Statutes at Large 7-87
- Chickasaws Proclaimed May 23, 1807 Kappler II 79 United States Statutes at Large 7-89
- Miamis Proclaimed April 24, 1806 Kappler II 80 United States Statutes at Large 7-91
- Cherokees Proclaimed April 24, 1806 Kappler II 82 United States Statutes at Large 7-93
- Cherokees Proclaimed June 10, 1806 Kappler II 84 United States Statutes at Large 7-96





smaller and smaller areas upon which even there, the whites trespassed with disastrous results to the Indians, because in practically every quarrel between them and the whites it was taken for granted that the Indians were the aggressors. The result was that they were willing to remove to new lands provided by the United States, especially when there was a money compensation for them, small as it might be, prior to the War of 1812. This procedure applied to practically all of the tribes, east of the Appalachians.

The first real removals placed the Indians in Kentucky, Tennessee, Alabama, Mississippi, Ohio or Indiana, where Indian tribes already had their habitat which accounts for some friction between the Indian tribes themselves, reconciliations between them being provided for in many treaties made by opposing Indian groups with the United States; or beyond the Mississippi for many of the southern





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Indians. The Ohio and Indiana groups were subsequently moved,

1. Cherokees Proclaimed December 26, 1817 Kappler II 140  
United States Statutes at Large 7-153 Article VI "The United States bind themselves in exchange for the lands ceded in the first and second articles hereof (on Tennessee River, etc.) to give to that part of the Cherokee nation in the Arkansas as much land as they have or may hereafter receive from the Cherokee nation east of the Mississippi, acre for acre, as the first proportion due that part of the nation."

With Potawatamies Proclaimed January 15, 1819 Kappler II 168  
United States Statutes at Large 7-185 Article II "The United States agree to purchase any just claim which the Kickapoos may have to any part of the country hereby ceded below Pine Creek" (Ohio).

Weas Proclaimed January 7, 1819 Kappler II 169  
United States Statutes at Large 7-186 Article IV. The Weas sanction a cession of land by the Kickapoos in 1809.

Delawares Proclaimed January 15, 1819 Kappler II 170  
United States Statutes at Large 7-188 Article II. "In consideration of the aforesaid cession (all their claim to land in the state of Ohio), the United States agree to provide for the Delawares a country to reside in, upon the west side of the Mississippi."

Choctaws Proclaimed January 8, 1821 Kappler II 191  
United States Statutes at Large 7-210 Article II. United States ceded land west of Mississippi between the Arkansas and the Red Rivers in return for land ceded by the Indians near the mouth of the Arkansas River.

Creeks Proclaimed March 7, 1825 Kappler II 214  
United States Statutes at Large 7-251 Preamble.

Sioux Proclaimed February 6, 1826 Kappler II 250  
United States Statutes at Large 7-272 Article II. "It is agreed between the confederated tribes of the Sacs and Foxes and the Sioux, that the line between their respective countries shall be as follows.....And the Sacs and Foxes relinquish to the tribes interested therein all their claim to land on the east side of the Mississippi River."





a few into Illinois, but the majority into the so called "neutral belt of Michigan, Wisconsin, and Minnesota, usually in that order, removal following removal in greater or less proximity. The largest sums paid the Indians for removal were paid by the United States government to the Indians migrating from this belt,<sup>1</sup>

1. Sioux proclaimed February 24, 1853 Kappler II 591  
United States Statutes at Large 7-954 Article IV  
"In further and full consideration of said cession (Minnesota) and relinquishment, the United States agree to pay the said Indians the sum of \$1,410,000 at the several times, in the manner and for the purposes following:-  
Cf. Cherokees December 29, 1835 \$5,000,000 Kappler II 440,  
Sioux January 9, 1789 at Fort Harmar Ohio Kappler II 18 )  
August 21, 1805 Crouseland Indiana Kappler II 80 )  
November 17, 1807 Detroit Michigan Kappler II 92) gives  
November 15, 1861 Kansas River Michigan Kappler II 824) idea  
migrations
- Winnebago Proclaimed February 13, 1833 Kappler II 345  
United States Statutes at Large 7-370  
Article II. "In part consideration of the above cession, it is hereby stipulated and agreed that the United States grant to the Winnebago nation, to be held as other Indian lands are held, that part of the tract of the country on the west side of the Mississippi, known at present, as the Neutral ground contained within the following limits....."





and the longer the Indians fought off removal, the more they were paid to remove.

The next great movement, following treaties between the United States and the Indians, took the Indians of this neutral belt beyond the headwaters of the Mississippi into what is now the states of North and South Dakota, and Nebraska. The removals then took some of the tribes into the more remote Northwest, others southward into Missouri, Kansas or into unoccupied lands in the present state of Oklahoma, long the Indian territory, the tendency being to make the reservations smaller and smaller.

1. Sauks and Foxes Proclaimed February 13, 1833 Kappler II 374  
United States Statutes at Large 7-374  
Kickapoos Proclaimed February 13, 1833 Kappler II 391  
United States Statutes at Large 7-391  
Article II. "The United States will provide for the Kickapo tribe, a country to reside in, southwest of the Missouri river....and whereas, the said Kickapoo tribe are now willing to remove on the following conditions from the country ceded on the Osage river, in the state of Missouri, to the country selected on the Missouri river, north of the lands, that have been assigned to the Delawares...."  
Kaskaskias Proclaimed February 12, 1833 Kappler II 376  
United States Statutes at Large 7-403  
"Whereas the Kaskaskia tribe of Indians and the bands aforesaid united therewith, are desirous of uniting with the Peorias, on lands west of the state of Missouri, they have therefore agreed....Article I to cede land granted by Treaty of Vincennes August 13, 1803 (lands in Illinois ceded Article IV, "United States cede to tribes of Kaskaskias and Peorias 450 sections west of the state of Missouri, on the waters of the Osage river..."





Those whose numbers had diminished into small groups, in some cases only a few families being left, were subsequently settled in the more remote west, especially<sup>1</sup> California, Oregon, and Washington.

Footnote 1 of Page 333 (continued)

Ivapaws Proclaimed April 12, 1834 Kappler II 395

United States Statutes at Large 7-424

Chippewas Proclaimed February 21, 1835 Kappler II 402

United States Statutes at Large 7-431

Article I, "The said United States of Chippewa, Ottawa, and Potawatamie Indians, cede to the United States all their land, along the western shore of Lake Michigan, and between this Lake and the land ceded to the United States by the Winnebago nation at the Treaty of Fort Armstrong made on the 15th September 1832....."

Article II, "In part consideration of the above cession it is hereby agreed that the United States shall grant to the said United Nation of Indians.....a tract of country west of the Mississippi river to be assigned to them by the President of the United States."

1. Royce Land Cessions of the United States. Maps 7-8.

California---Diegueho January 7, 1852 II-788

(San Luis Rey January 5, 1852 II-788

(Kah-we-a

(Co-com-cah-ra

(Chu-nute June 3, 1851

(No-mul

(Yo-hum-ne

(Co-ge-tie

Oregon--Kiamath Land Cessions maps 51-53 October 14, 1867

(Modock

(Yahookin

Umpquaw September 19, 1852

Coast Indians executive order December 21, 1865

Summis Mesa, Canyon, and Puebla 255-261





In his last annual message Tyler concluded his discussion of the Indian question with "the executive has abated no effort in carrying into effect the well established policy of the Government which contemplates a removal of all the tribes residing within the limits of the several states beyond these limits and it is now enabled to congratulate the country at the prospect of an early consummation of this subject."

<sup>1</sup>  
Polk also reported, "Our relations with the Indian tribes are of a favorable character. The policy of removing them to a country designed for their permanent residence west of the Mississippi.....is better appreciated by them than it was a few years ago." He reported, however, that a few Cherokees who had remained in North Carolina were giving<sup>3</sup> trouble. They had agreed to emigrate by the treaty of 1835.<sup>2</sup> He advocated their removal to join their brethren in the west. Evidently his methods were successful because we find that he reported in a special message of August 7, 1846, that they were willing to negotiate a treaty to that effect.<sup>4</sup>

A great part of the southwest tribes were brought under the control of the United States Government as a direct result of the Mexican War. Naturally, there were disturbances but treaties were made with them similar in scope to those

1. 1st Annual Address December 1845 Richardson IV 411
2. Richardson IV 411
3. Kappler II 439-449
4. Richardson IV 458





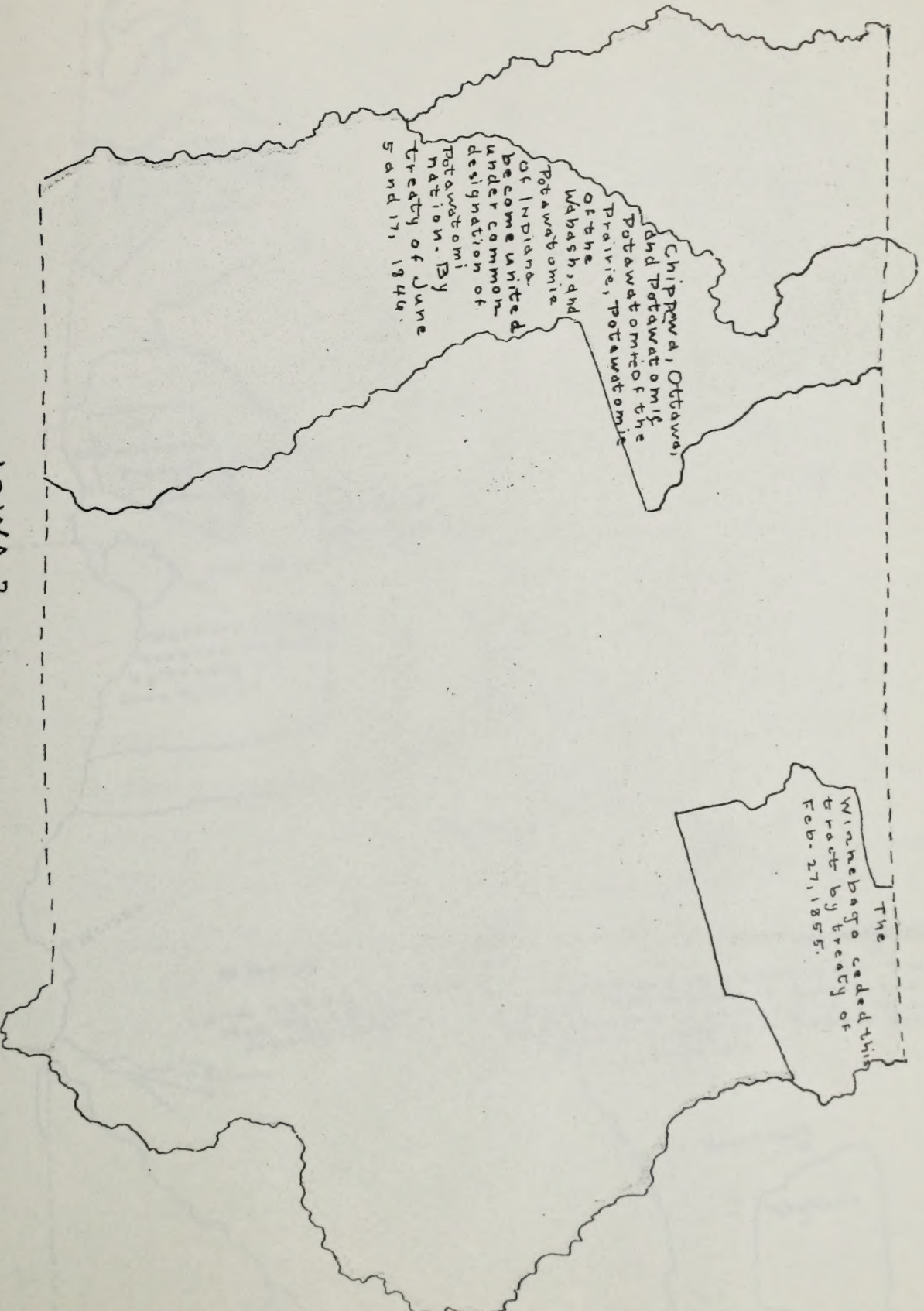
made subsequent to the war of 1812, and the Mexican War whereby they came under the protection of the United States and promised allegiance to no other nation. These tribes were not removed unless, as has been shown above, they formed small groups.

<sup>1</sup>  
Polk's second annual message contained the report "Between 3,000 and 4,000 of different tribes have been removed to the country provided for them by treaty stipulation and agreements have been made for others to follow." In his third annual message, he also noted the effect of Congress's act of March 3, 1846 in accordance with which he had paid annuities due to tribes to the heads of families instead of to their chiefs; and he reported that general <sup>2</sup>satisfaction had resulted, and in his final report Polk stated that during his Presidency important treaties had been negotiated with the Indians at a cost of \$1,842,000 by which 18,500,000 acres had been ceded to the United <sup>3</sup>States, which practically ended removal as ordered by Congress in 1830.

1. Richardson IV 505
2. Ibid 500
3. Ibid 651







A hand-drawn map of the state of Iowa, outlined with a dashed line. The map is divided into several regions by solid lines. In the north-central part, a region is labeled with text about the Chipewa, Ottawa, and Potawatomi tribes. To the west of this, another region is labeled with text about the Potawatomi, Wabash, and other tribes. In the south-east corner, a small rectangular area is labeled with text about the Winnebago tribe. The rest of the state is left blank.

Chipewa, Ottawa,  
and Potawatomi  
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Potawatomi  
Prairie, Potawatomi  
of the  
Wabash, and  
Potawatomi  
of Indiana  
become united  
under common  
designation of  
Potawatomi  
Nation. By  
Treaty of June  
5 and 17, 1846.

The  
Winnebago ceded this  
tract by Treaty of  
Feb. 27, 1855.



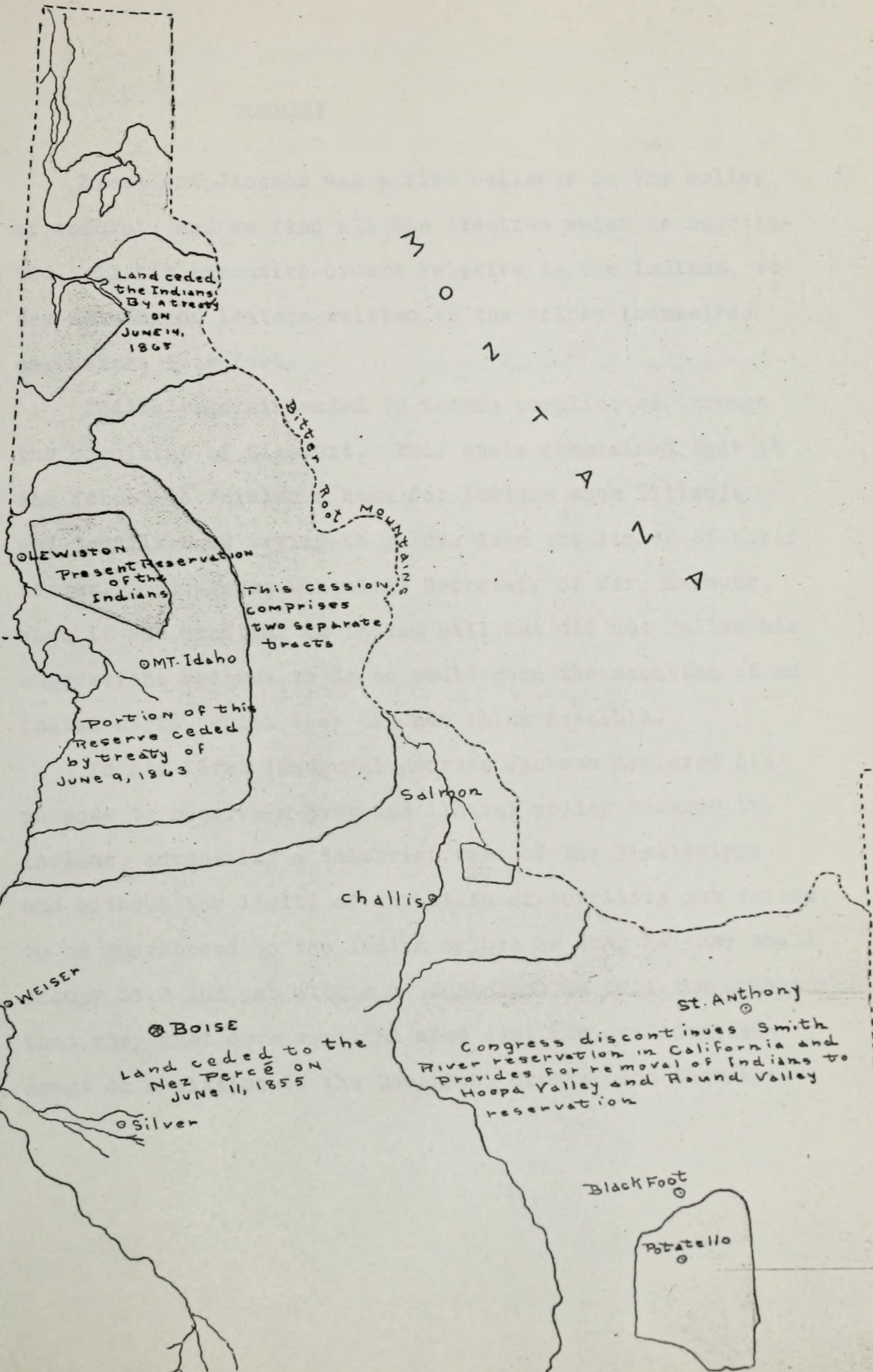


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## SUMMARY

President Jackson was a firm believer in the policy of removal, and we find all the treaties which he negotiated, all his executive orders relative to the Indians, to say nothing of letters written to the tribes themselves emphasized this fact.

Indian removal tended to become complicated through the complaint of Missouri. This state complained that it was forced to furnish a home for Indians whom Illinois and Georgia were trying to remove from the limits of their states. Congress consulted Secretary of War, Barbour, when it was drafting an Indian bill but did not follow his suggestions because to do so would mean the creation of an Indian state, which they did not think feasible.

In his first Inaugural address Jackson declared his purpose to observe a just and liberal policy towards the Indians, advocating a "district west of the Mississippi and without the limits of any state or territory now formed, to be guaranteed to the Indian tribes as long as they shall occupy it." And yet within a fortnight he told the Creeks that they must move west. He also sent his confidential agent on a mission to the Choctaws, Creeks, and Cherokees





to get a removal agreement from them but they were against removal.

Jackson declared that the principal reason for the non success of the government's Indian policy was the fact that while attempting to civilize them, the United States at the same time kept purchasing their lands, thus thrusting them further and further into the wilderness. He decided that the government could not interfere with a state on behalf of the Indians because if it did so, it would be attempting to destroy a state which it was established to protect. For this reason, Jackson advised the Creeks and Cherokees to emigrate or submit to the laws of Georgia and Alabama.

The Removal bill became a party issue in Congress, the Senate discussion lasting from April 6 to April 26, 1830. The House finally substituted the Senate bill for its own. In spite of strenuous opposition, the bill was forced through Congress and signed by the President May 28, 1830. By it the President was to offer an exchange of lands to the Indians living within state or territorial limits; he was to assure the Indians removing that the United States would secure forever and guarantee to them the land so exchanged; and he was also to aid the Indians





in removal, supporting them for one year after they had removed.

The Cherokees objected to removal sending a delegation to Washington where they consulted Webster and Freelingshuysen who advised them to appeal to the courts. The Supreme Court dismissed the case for lack of jurisdiction. When the Creeks also sent a delegation, they were told that they must remove too.

Jackson appointed Colonel James B. Gardiner to treat with the Ohio tribes. He concluded five treaties but the question of the genuineness of these documents were discussed in the House. The Sacs and Foxes in Illinois opposed removal until after the Black Hawk War in 1832 when they withdrew to the west bank of the Mississippi.

The series of Indian uprisings from 1834 to 1837, which resulted from general dissatisfaction with regard to removal were speedily ended under Jackson's direction with the exception of that of the Seminoles. In order to stop border difficulties between the whites and the Indians, Congress passed the Indian Intercourse Act of 1834 which forbade any white person to go into the Indian country without a license.





Jackson made sixty seven treaties with the Indians practically all calling for removal; better terms for removal and money payments being made with the more important tribes or those whose removal the whites were demanding strenuously.

Van Buren followed Jackson's removal policy. In 1838, he tried to persuade the Choctaws, Creeks, and Cherokees to remove to lands in Kansas in exchange for their lands in Georgia, promising not to disturb them if they moved to Arkansas, since the land there was not suitable to white occupation. Although the Seminoles had finally agreed to remove, they kept delaying. Eventually, an uprising was led by Osceola. Van Buren's administration spent \$14,000,000 to put down 2000 warriors, according to his own estimate. The war was not concluded before he left office but gradually died out.

Governor Gilmer threatened trouble if the Cherokee removal was not begun immediately, much as trouble had done previously. He ordered them to assemble ready to leave for Arkansas. They obeyed and in a short time practically the whole nation was removed. The Creeks, except for a few fugitives among the Seminoles, likewise removed.





Although Van Buren was a strong advocate of removal, he said nothing about the creation of an Indian state, although he advocated the purchase of Indian lands and their speedy removal.

In his last annual address, he tells how busy throughout his whole administration the troops had been in carrying out removal, stating that since 1837, 40,000 Indians had been transferred to new homes beyond the Mississippi.

All of the eighteen treaties concluded by Van Buren, called for removal as those of Jackson did; such removals to be completed within two years. In some cases, exploring parties were to be sent out to report to the Indians relative to the new lands, before general migration was to take place.

The payments to Indians, especially half breeds, were even higher than under Jackson, and the Government assumed many payments for damages claimed from the Indians, and debts owed by them. The United States were especially anxious too that the Indians should show themselves friendly towards the Republics of Texas and Mexico. The expenses of the negotiation of the treaties were to be met by the United States.

The New York Indians, feeling that they might be crowded off their New York lands, had purchased lands at Green Bay, Missouri, with the consent of the President. By the treaty of





February 1831, they were promised 500,000 acres of land if they would all migrate. Some Indians felt it would be better to move directly to the Indian territory, avoiding a second removal in this way. Another treaty was negotiated for that purpose. The Ogden Land Company were particularly desirous of purchasing the Seneca lands near Buffalo. Thomas L. Ogden and Joseph Fellows, assignees of the state of Massachusetts, purchased all the Seneca claims for \$202,000 to be paid to the United States, who were to administer the amount in behalf of the Senecas.

By the close of Van Buren's administration, removal in general had been carried to a successful conclusion probably due to the fact that the removing Indians were under military escort practically all of the way.

The Seminoles, however, remained a source of trouble to the government for years. There were about 2000 left. These Indians delayed removal even after they had agreed to do so. Against this small band, a \$14,000,000 war was carried on. We find Tyler making them the subject of part of every one of his messages. In 1841, he asked for more money to continue removals, but in the next summer a new method of procedure was suggested, since there were only 80 warriors left. Peace was finally concluded in July 18, 1845, when





the Seminole removal practically began.

Polk reported in his final message that important treaties had been negotiated with the Indians at a cost of \$1,842,000 by which 18,500,000 acres were ceded to the United States.

The other disturbances prior to the Civil War had to do with the results of the annexation of Texas and Mexico, having no connection with removal.





## AUTOBIOGRAPHY

I was born in a house at the top of Beacon Hill just about where the marble wing of the State House stands, on January 4, 1879. My parents were Clara May Cosgrove, of old English-American stock, one of her ancestors having been the first commander of the fort at Halifax, Nova Scotia, after it passed from the hands of the French into those of the English. My father was John Henry Bowker of Dutch-English descent. One of his ancestors, a New York shipbuilder, came to America with John Jacob Astor. He married into the older Dutch-American family of Achaeffner.

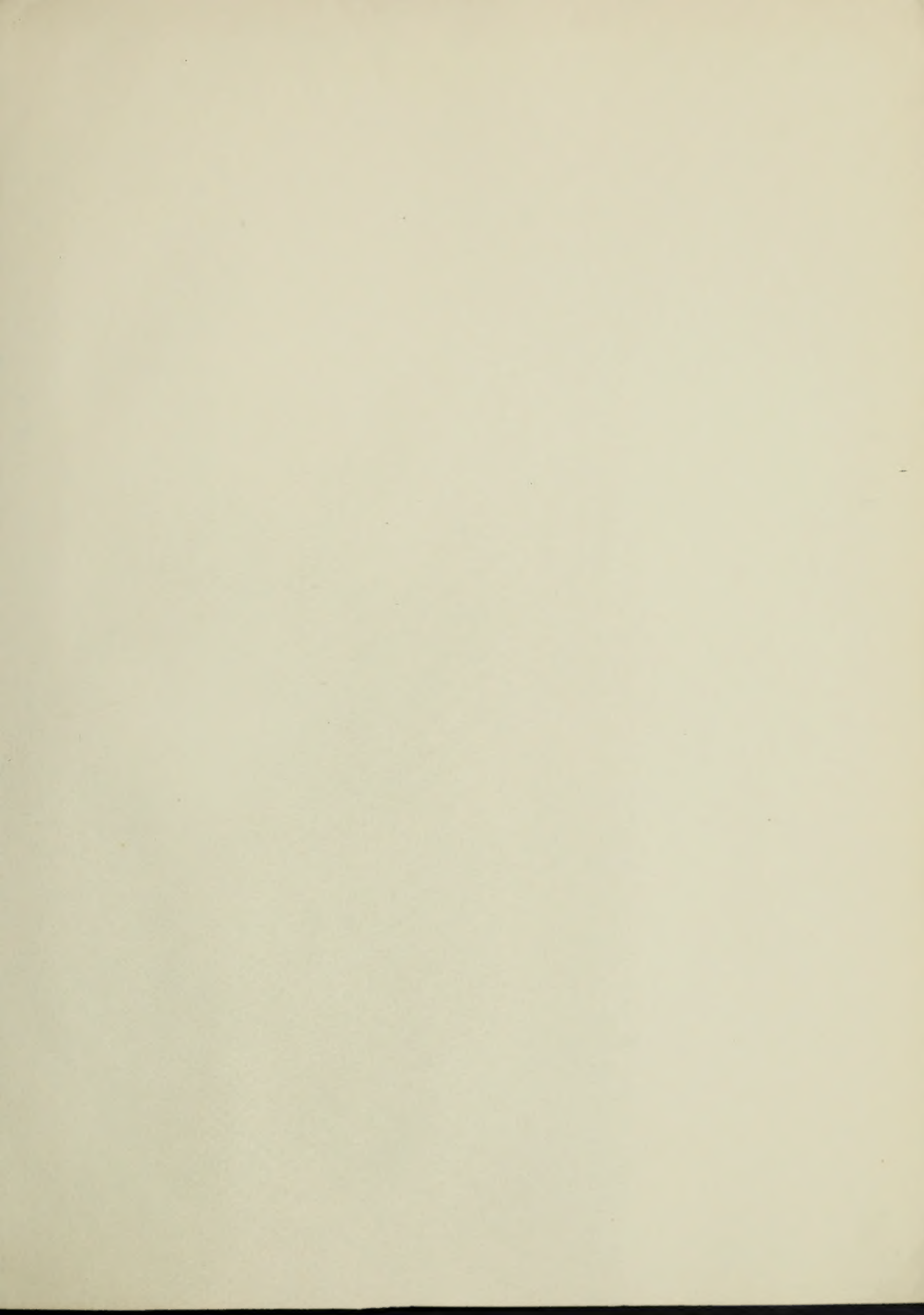
I went to the Boston public schools; prepared for college at Doctor Gilman's School for Girls; and graduated from Radcliffe in June, 1904. In June, 1923, I received a degree of Master of Arts from Boston University.

I taught at Milford, New Hampshire from Sept., 1904-1905; at Dedham, Massachusetts Sept., 1905-1906; at Arlington from Sept., 1906-1908; at the Somerville Classical High School from Sept., 1908-1909; and at the High School of Practical Arts, Boston, where I am now an Assistant, from 1909-1926.

I have made several comprehensive trips to Europe which included travel in Spain, Italy, Switzerland, Germany, Belgium, Holland, France, England, Scotland, Ireland and Wales. My travels have also taken me across the United States four times and into thirty-four states of the Union.

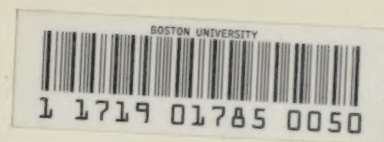












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